

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.

SEVENTY SECOND OMNIBUS OBJECTION TO CLAIMS
(Claims Should be Disallowed under Section 502(d) of the Bankruptcy Code)

**IMPORTANT NOTICE TO CREDITOR:
THIS IS AN OBJECTION TO YOUR CLAIM**

This objection seeks to disallow your claim. Please read this objection carefully to identify which claim/scheduled claim is objected to and what disposition is recommended for your claim.

If you disagree with the objection or the recommended treatment, you must file a written response WITHIN 30 DAYS from February 7, 2014, explaining why your claim should be allowed as presently filed, and you must mail a copy to the undersigned attorneys OR YOUR CLAIM MAY BE DISPOSED OF IN ACCORDANCE WITH THE RECOMMENDATION IN THIS OBJECTION.

Any written response must include the following: (i) the approved case caption and the title of the objection to which the response is directed; (ii) the name of the claimant and the official claim number; (iii) a description of the basis for the amount of its underlying proof of claim or scheduled claim; (iv) a concise statement setting forth the reasons why the Court should not sustain the objection, including, but not limited to, the specific factual and legal bases upon which the claimant will rely in opposing the objection; and (v) a telephone number, email address and other contact information. Any written response must be filed with the Clerk of the United States Bankruptcy Court, Bryan Simpson United States Courthouse, 300 North Hogan Street, Suite 3-350, Jacksonville, FL 32202 with a copy to Alisa Paige Mason, Esq., Berger Singerman LLP, 1450 Brickell Avenue, Suite 1900, Miami, FL 33131-3453.

Neil F. Luria, as Plan Trustee (“Plan Trustee”) for the Taylor, Bean & Whitaker Plan Trust¹ (the “Plan Trust”), by and through undersigned counsel and pursuant to Federal Rule of Bankruptcy Procedure 3007 and Local Rules 3007-1 and 2002-4, hereby files this omnibus objection (the “Omnibus Objection”) to the claims listed on **Exhibit “A”** (collectively, the “Claims”) on the basis that such claims must be disallowed pursuant to 11 U.S.C. § 502(d) of the United States Bankruptcy Code because the original claimholders (the “Claimants”)² received avoidable transfers and have not returned the transferred property to the Debtors’ estates. The Plan Trustee seeks to disallow the Claims for the following reasons:

Exhibit A: Section 502(d). The Plan Trustee objects to each of the Claims listed on Exhibit A on the basis that the Claimants received avoidable transfer(s) under 11 U.S.C. §§ 547 and/or 548 and have been sued by the Plan Trustee accordingly. Section 502(d) of the Bankruptcy Code provides that the Court “shall disallow any claim of an entity from which property is recoverable under section 542, 543, 550, or 553 of this title or that is a transferee of a transfer avoidable under section 544, 545, 547, 548, 549, or 724(a)...” Furthermore, final default judgments were entered against each of the Claimants with respect to the Claims set forth on Exhibit A to this Objection. Accordingly, the Plan Trustee recommends disallowing each of the Claims in full.

The Plan Trustee requests that the Claims be disallowed as noted above. To the extent that a claim described in **Exhibit “A”** has been assigned, pledged, mortgaged, sold, transferred or the subject of any other disposition to a Transferee after the Effective Date of the Plan, the Plan Trustee submits that notwithstanding any assignment, pledge, mortgage, sale, transfer or other disposition, the Claim should still be disallowed on the basis that the Claimant received an avoidable transfer. Further, Article 6.G.13 of the Plan and Section X of the accompanying Plan Trust Agreement

¹ 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] (the “Plan”), August 10, 2011, the Debtors and the Official Committee of Unsecured Creditors have been replaced for the most part by the Taylor, Bean & Whitaker Plan Trust. Capitalized terms in this objection not otherwise defined shall have the meaning set forth in the Plan.

² The Plan Trustee recognizes that some of the Claims listed on Exhibit “A” have been subsequently sold or transferred to third parties (the “Transferees”).

prohibit the assignment, pledge, mortgage, sale, transfer or any other disposition of an interest in the Plan Trust, including the Claims, after the Effective Date.

The Plan Trustee reserves the right to amend his objection to any Claims set forth herein, to object on additional grounds not set forth herein and/or to object to any further claims not presently set forth herein. By filing this Omnibus Objection, the Plan Trustee does not waive the right to file further objections or to pursue avoidance actions or other causes of action.

WHEREFORE, the Plan Trustee respectfully requests that the Court (1) treat the Claims set forth herein as recommended by the Plan Trustee, without prejudice to the rights of the Plan Trustee or other interested parties to file further objections or to pursue avoidance actions or other causes of action, and (2) grant such other and further relief as is just and appropriate.

I HEREBY CERTIFY that I am admitted to the Bar of the United States District Court for the Middle District of Florida and I am in compliance with the additional qualifications to practice in this court set forth in Local Rule 2090-1(a).

Dated: February 6, 2014

Respectfully submitted,

BERGER SINGERMAN LLP
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Taylor, Bean & Whitaker Plan Trust*
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By: /s/ Alisa Paige Mason
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**In re: Taylor, Bean & Whitaker Mortgage Corp., et al.
 Jointly Administered Under Case No. 3:09-bk-07047-JAF
 OMNIBUS 72: EXHIBIT A - CLAIMS TO BE DISALLOWED**

Creditor Name / Address	Case Number	Claim Number	Total Claim Dollars*	Claim Type**	Modified Claim Amount*	Claim Type**
1 HAIN CAPITAL HOLDINGS LTD RE: C&D RESIDENTIAL SERVICE CORPORATION ATTN: GANNA LIBERCHUK 301 ROUTE 17, 7TH FL RUTHERFORD, NJ 07070	09-07047	283	\$56,820.00	(U)	\$0.00	(U)
2 RG COLLING APARTMENTS, INC. 11601 PELICAN DRIVE #C16 EL PASO, TX 79936	09-07047	1728	\$45,242.00	(U)	\$0.00	(U)
Totals:			\$102,062.00	(U)	\$0.00	(U)

*Plus, in certain instances, additional contingencies, unliquidated amounts, interest, penalties and/or fees.

**** (A) - Administrative
 (P) - Priority**

**(S) - Secured
 (U) - Unsecured**