

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.

**PLAN TRUSTEE'S OBJECTION TO SCHEDULED
CLAIM NUMBER S25803 OF PRECISION CONTRACTING GROUP, INC.**

**NOTICE OF OPPORTUNITY TO
OBJECT AND REQUEST FOR HEARING**

Pursuant to Local Rule 2002-4, the Court will consider this objection without further notice or hearing unless a party in interest files a response within **30 days** from the date set forth on the proof of service attached to this paper plus an additional three days for service. If you object to the relief requested in this paper, you must file your response with the Clerk of the Court at **Bryan Simpson United States Courthouse, 300 North Hogan Street, Suite 3-350, Jacksonville, FL 32202** and serve a copy on the movant's attorney, James D. Gassenheimer, Esq., Berger Singerman LLP, 1450 Brickell Avenue, Suite 1900, Miami, FL 33131-3453 within the time allowed.

If you file and serve a response within the time permitted, the Court may schedule and notify you of a hearing, or the Court may consider the response and may grant or deny the relief requested without a hearing. If you do not file a response within the time permitted, the Court will consider that you do not oppose the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

Neil F. Luria, as Plan Trustee (“Plan Trustee”) for the Taylor, Bean & Whitaker Mortgage Plan Trust¹ (the “Plan Trust”), by and through undersigned counsel, pursuant to Federal Rule of Bankruptcy Procedure 3007 and Local Rule 3007-1 and 2002-4, hereby files this objection (the “Objection”) to scheduled claim no. s25803 (the “Claim”) of Precision Contracting Group, Inc. (the “Claimant”) on the basis that the Claim must be disallowed pursuant to 11 U.S.C. § 502(d) because the Claimant received an avoidable transfer and has not returned the transferred property to the applicable Debtor’s estate. The Plan Trustee states in support thereof:

Claimant	Claim #	Amount	Basis for Disposition	Recommended Disposition
Precision Contracting Group, Inc.	s25803	\$88,020.50	The Plan Trustee objects to this Claim on the basis that the Claimant has received avoidable transfer(s) under Section(s) 547 and/or 548 of the Bankruptcy Code. 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). . . .” The Plan Trustee sued the Claimant to recover the transfer(s) (3:11-ap-00926) and has obtained a judgment by default in favor of the Plan Trustee. Accordingly, the Plan Trustee submits that the Claim should be disallowed pursuant to section 502(d).	This Claim should be disallowed in its entirety.

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.

The Plan Trustee requests that the Claim be disallowed as noted above. The Plan Trustee reserves the right to amend the Objection 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 Objection, the Plan Trustee does not waive the right to file further objections.

WHEREFORE, the Plan Trustee respectfully requests that the Court disallow the Claim set forth herein, as recommended by the Plan Trustee and grant such other and further relief as is just and appropriate.

Dated: January 5, 2016

Respectfully submitted,

BERGER SINGERMAN LLP
Counsel to the Plan Trustee
1450 Brickell Avenue, Suite 1900
Miami, FL 33131
Telephone: (305) 755-9500
Facsimile: (305) 714-4340

By: /s/ Debi Galler

Debi Galler
Florida Bar No. 985236
dgaller@bergersingerman.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served electronically through the Court's CM/ECF system upon all parties authorized to receive electronic service in this matter, and via U.S. Regular Mail, postage prepaid, upon Precision Contracting Group, Inc., c/o Keith Franklin, 161 Mountain Vista Blvd., Canton, GA 30115-4273 and 301 Winterthur Estates Trace, Canton, GA 30114, and Precision Contracting Group, Inc., c/o Burke O. Archer, Registered Agent, 341 E. Main Street, Canton, GA 30114 on this 5th day of January, 2016.

/s/ Debi Galler
Debi Galler