

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

IN RE:

TAYLOR, BEAN & WHITAKER
MORTGAGE CORPORATION,

Debtor.

_____ /

NEIL F. LURIA, as Plan Trustee,

Plaintiff,

v.

CASE NO.: 3:09-bk-7047-JAF
Chapter 11

Adversary No.: 3:10-ap-129-JAF

LEE B. FARKAS, Individually and as a General
Partner of 3201 Partnership, CODA ROBERSON, III,
Individually and as a General Partner of
3201 Partnership, and 3201 PARTNERSHIP,
a Florida general partnership,

Defendants.

_____ /

**ORDER ON DEFENDANTS' MOTION FOR LEAVE TO AMEND ANSWER TO
ASSERT ADDITIONAL AFFIRMATIVE DEFENSE**

This proceeding is before the Court on Defendants' Motion for Leave to Amend Answer and Affirmative Defenses to Assert an Additional Affirmative Defense (Doc. 61, Motion). Plaintiff filed a response to the Motion, wherein he asserts that he does not oppose the relief requested by Defendants (Doc. 66 at 2).

Rule 15(a) of the Federal Rules of Civil Procedure, made applicable by Rule 7015 of the Federal Rules of Bankruptcy Procedure, states that leave to amend a pleading "shall be freely given when justice so requires." Fed. R. Bankr. P. 7015; Fed. R. Civ. P. 15; *see also Foman v. Davis*, 371 U.S. 178, 182 (1962). In the language of the *Foman* Court,

In the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.— the leave sought should, as the rules require, be ‘freely given.’

371 U.S. at 182.

Upon consideration, the Court finds Defendants’ Motion (Doc. 61) not to be in bad faith, for purposes of delay, or for any suspect reason stated above. Based on the foregoing, it is **ORDERED**:

1. Defendants’ Motion for Leave to Amend Answer and Affirmative Defenses to Assert an Additional Affirmative Defense (Doc. 61) is granted.

2. The Clerk is directed to file Defendants’ Amended Answer and Affirmative Defenses, which is attached as Exhibit “A” to the Motion.

Dated this 15th day of December, 2011 in Jacksonville, Florida.

/s/ Jerry A. Funk

Jerry A. Funk

United States Bankruptcy Judge

Copies to:

Kimberly H. Israel, Esq., Attorney for Defendants
James C. Cunningham, Jr., Esq., Attorney for Neil F. Luria
Paul Sullivan, Esq., Attorney for Coda Roberson, III