

**IN THE UNITED STATES BANKRUPTCY COURT FOR
THE NORTHERN DISTRICT OF MISSISSIPPI**

IN THE MATTER OF:

CHAPTER 13 CASE NO.:

**SAMUEL M. BROTHERS
LORA BROTHERS**

10-10518-NPO

ORDER RE: OBJECTION TO CLAIM OF BANK OF AMERICA (Dkt. #20)

THIS MATTER came before the Court on Trustee's Objection to Proof of Claim of BAC Home Loans Servicing, LP as servicer for the Bank of New York Mellon Trust Company, N.A. ("BAC") and BAC's response thereto after notice and an opportunity for hearing. The Court, having taken testimony and heard argument from counsel, does hereby find as follows:

1. Trustee's Objection to Proof of Claim of BAC is well taken and should be sustained.

2. BAC filed a secured claim (Clm#9-1) on behalf of Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificateholders of CWMBS 2005-R1 ("CWMBS 2005-R1") on April 5, 2010. The claim was amended (Clm#9-2) on August 2, 2010.

3. Bank of New York Mellon f/k/a The Bank of New York as Trustee for the Certificateholders of CWMBS 2005-R1 is the holder of the underlying deed of trust executed by Debtors on October 31, 2000.

4. No evidence was offered to show that CWMBS 2005-R1 owns or otherwise holds the underlying promissory note, therefore, CWMBS 2005-R1 is not a creditor of Debtors.

IT IS THEREFORE ORDERED AND ADJUDGED, that the claim of BAC Home Loans Servicing, LP as servicer for the Bank of New York Mellon Trust Company, N.A. shall be and is hereby disallowed.

SO ORDERED

APPROVED AS TO FORM:

/s/ W. Jeffrey Collier
W. JEFFREY COLLIER – MSB#10645
ATTORNEY FOR TRUSTEE

/s/ Michael Alan Jedynak (w/ permission)
MICHAEL ALAN JEDYNAK
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