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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

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IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

No.: C-09-233-10-CO01

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TAYLOR, BEAN & WHITAKER
MORTGAGE CORP.,

CONSENT ORDER

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Respondent.

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COMES NOW the Director of the Department of Financial Institutions (Director), through his
designee Deborah Bortner, Division Director, Division of Consumer Services, and Taylor, Bean &
Whitaker Mortgage Corp. (Respondent), and finding that the issues raised in the above-captioned
matter may be economically and efficiently settled, agree to the entry of this Consent Order. This
Consent Order is entered pursuant to chapter 31.04 of the Revised Code of Washington (RCW), and
RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and
Respondent have agreed upon a basis for resolution of the matters alleged in Temporary Order to
Cease and Desist and Summary Suspension of License No. C-09-233-09-TD01 (Temporary Order to
Cease and Desist), entered August 7, 2009, (copy attached hereto). Pursuant to chapter 31.04 RCW,
the Consumer Loan Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent
hereby agrees to the Department's entry of this Consent Order and further agrees that the issues
raised in the above-captioned matter may be economically and efficiently settled by entry of this
Consent Order. The parties intend this Consent Order to fully resolve the Temporary Order to Cease
and Desist.

Based upon the foregoing:

CONSENT ORDER
C-09-233-10-CO01
Taylor, Bean & Whitaker Mortgage Corp.

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902.8703

1 A. **Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter
2 of the activities discussed herein.

3 B. **Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a
4 hearing before an administrative law judge, and hereby waives its right to a hearing and any and all
5 administrative and judicial review of the issues raised in this matter, or of the resolution reached
6 herein. Accordingly, Respondent, by the signature of its representative below, withdraws its appeal
7 to the Office of Administrative Hearings.

8 C. **Activity Since Issuance of Temporary Order to Cease and Desist.** Respondent
9 represents and warrants that it has not made any loans involving borrowers or real property located in
10 the State of Washington since the Department issued the Temporary Order to Cease and Desist.
11 Respondent represents and warrants that it is not currently servicing any residential mortgage loans
12 involving borrowers or real property located in the State of Washington.

13 D. **Consumer Loan Company License Revocation.** It is AGREED that Respondent's
14 licenses to conduct the business of a consumer loan company, including all branch office licenses, are
15 revoked, effective upon entry of this Consent Order.

16 E. **Agreement to Cease and Desist.** It is AGREED that Respondent shall permanently
17 cease and desist from any activity requiring a consumer loan company license from the Department,
18 including but not limited to making loans or servicing residential mortgage loans or both involving
19 borrowers or real property located in the State of Washington.

20 F. **Rights of Non-Parties.** It is AGREED that the Department does not represent or have the
21 consent of any person or entity not a party to this Consent Order to take any action concerning their
22 personal legal rights. It is further AGREED that for any person or entity not a party to this Consent
23

1 Order, this Consent Order does not limit or create any private rights or remedies against Respondent,
2 limit or create liability of Respondent, or limit or create defenses of Respondent to any claims.

3 **G. Records Retention.** It is AGREED that Respondent, its officers, employees, and agents
4 shall maintain records in compliance with the Act and provide the Director with the location of the
5 books, records and other information relating to Respondent's consumer loan company business, and
6 the name, address and telephone number of the individual responsible for maintenance of such
7 records in compliance with the Act.

8 **H. Authority to Execute Order.** It is AGREED that the undersigned represents and
9 warrants that he has the full power and right to execute this Consent Order on behalf of the party
10 represented.

11 **I. Non-Compliance with Order.** It is AGREED that Respondent understands that failure to
12 abide by the terms and conditions of this Consent Order may result in further legal action by the
13 Director.

14 **J. Voluntarily Entered.** It is AGREED that Respondent has voluntarily entered into this
15 Consent Order, which is effective when signed by the Director's designee.

16 **K. Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read
17 this Consent Order in its entirety and fully understands and agrees to all of the same.

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1 **RESPONDENT:**

2 **Taylor, Bean & Whitaker Mortgage Corp.**

3 By:

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5 Neil Luria
6 Chief Restructuring Officer

4/21/2011

Date

7 DO NOT WRITE BELOW THIS LINE

8 THIS ORDER ENTERED THIS 27th DAY OF April, 2011





13 DEBORAH BORTNER
14 Director
15 Division of Consumer Services
16 Department of Financial Institutions

17 Presented by:



18 MARK T. OLSON
19 Financial Legal Examiner

20 Approved by:



21 JAMES R. BRUSSELBACK
22 Enforcement Chief

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

C-09-233-09-TD01

TAYLOR, BEAN & WHITAKER
MORTGAGE CORP.,

TEMPORARY ORDER TO CEASE
AND DESIST AND SUMMARY
SUSPENSION OF LICENSE

Respondent.

THE STATE OF WASHINGTON TO: Taylor, Bean & Whitaker Mortgage Corp.

COMES NOW the Director of the Washington State Department of Financial Institutions (Director), by and through his designee Deborah Bortner, Division Director, Division of Consumer Services (designee), and finding that the public is likely to be substantially injured by delay in issuing a cease and desist order, enters this temporary order to cease and desist and summary suspension of license pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act), based on the following findings:

I. FACTUAL FINDINGS

1.1 Respondent Taylor, Bean & Whitaker Mortgage Corp. (Respondent) is located at 315 NE 14th Street, Ocala, FL 34470. Respondent is licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a consumer loan company and holds five additional branch office consumer loan licenses issued by the Department.

1.2 On August 4, 2009, the Department of Housing and Urban Development (HUD) issued a news release stating:

“The Federal Housing Administration (FHA) today suspended [Respondent]...thereby preventing [Respondent] from originating and underwriting new FHA-insured mortgages. The Government National Mortgage Association (Ginnie Mae) is also defaulting and terminating [Respondent] as an issuer in its Mortgage-Backed Securities (MBS) program and is ending [Respondent’s] ability to continue to service Ginnie Mae securities...FHA and Ginnie Mae are imposing these actions because [Respondent] failed to submit a required annual financial report and misrepresented that there were no unresolved issues with its independent auditor even though the auditor ceased its financial examination after discovering certain irregular transactions that raised concerns of fraud. FHA’s suspension is also based on [Respondent’s] failure to disclose, and its false certifications concealing, that it was the subject of two examinations into its business practices last year...”

1 **2.3 Requirement to Retain Records.** Pursuant to RCW 31.04.155, Respondent is required to
2 preserve the books, accounts, records, papers, documents, files, and other information relevant to a loan for at
3 least twenty-five months after making the final entry on any loan, and to allow the Department free access to
4 such books, accounts, records, papers, documents, files, and other information wherever located.

5 **III. AUTHORITY TO ISSUE TEMPORARY ORDER TO CEASE AND DESIST**

6 **3.1 Authority to Issue Temporary Order to Cease and Desist.**

7 **A.** Pursuant to RCW 31.04.093(5), the director may issue an order directing the licensee,
8 its employee or loan originator, or other person subject to the Act to cease and desist from conducting business
9 in a manner that is injurious to the public or violates any provision of the Act; and take such affirmative action
10 as is necessary to comply with the Act.

11 **B.** Pursuant to RCW 31.04.165(2), if it appears to the director that a licensee is
12 conducting business in an injurious manner or is violating any provision of the Act, the director may order or
13 direct the discontinuance of any such injurious or illegal practice. Pursuant to RCW 31.04.165(3), “conducting
14 business in an injurious manner” means conducting business in a manner that violates any provision of the Act,
15 or that creates the reasonable likelihood of a violation of any provision of the Act.

16 **C.** Pursuant to RCW 31.04.093(7), whenever the Director determines that the public is
17 likely to be substantially injured by delay in issuing a cease and desist order, the director may immediately
18 issue a temporary cease and desist order. The order may direct the licensee to discontinue any violation of the
19 Act, to take such affirmative action as is necessary to comply with the Act, and may include a summary
20 suspension of the licensee’s license and may order the licensee to immediately cease the conduct of business
21 under the Act. The order shall become effective at the time specified in the order.

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1 **IV. ORDER**

2 Based on the above Factual Findings, Grounds for Entry of Order, and Authority to Issue Temporary
3 Order to Cease and Desist, and pursuant to RCW 31.04.093 and RCW 31.04.165, the Director determines that
4 the public is likely to be substantially harmed by a delay in entering a cease and desist order. Therefore, the
5 Director ORDERS that:

6 **4.1** Respondent's licenses to conduct the business of a consumer loan company, including all branch
7 office licenses, are summarily suspended.

8 **4.2** Respondent shall immediately cease and desist accepting, from either consumers, mortgage
9 brokers, or other consumer lenders, any applications for loans from Washington Consumers or secured by
10 Washington real property. For the purposes of this Order, "Washington Consumers" shall include Washington
11 residents and persons that have submitted applications for loans which are, or are intended to be, secured by
12 Washington real property.

13 **4.3** Respondent shall immediately cease and desist from advertising its consumer loan business in
14 Washington or to Washington Consumers.

15 **4.4** Respondent shall immediately notify, in writing, all Washington Consumer applicants or the
16 applicant's broker of the status of all loan applications and loans pending with Respondent and the likelihood
17 of funding. Respondent shall make all reasonable efforts to assist Washington Consumers by placing all
18 pending loan applications and loans with other lenders.

19 **4.5** Respondent shall immediately provide the Department with contact information, including names,
20 addresses, and telephone numbers (if available), for all Washington Consumers with loan applications or loans
21 pending with Respondent. Respondent shall provide the Department with a weekly update of the status of all
22 pending loan applications and loans for Washington Consumers until all such pending loan applications and
23 loans have been placed with other lenders or withdrawn by the applicants. This contact information and
24 weekly update shall be sent to James R. Brusselback, Program Manager and Enforcement Chief, Consumer
25 Services Division, at jbrusselback@dfi.wa.gov.

1 **4.6** Respondent shall immediately place any fees previously collected from Washington Consumers
2 relative to any pending loan applications or loans in a separate escrow account maintained at a federally
3 insured depository institution. Respondent shall transfer to any new lender all fees paid by Washington
4 Consumers whose loans are placed with other lenders. Respondent shall return all fees paid by Washington
5 Consumers whose loans are not placed with other lenders.

6 **4.7** Respondent shall release any liens filed on any Washington real property or filed on property
7 owned by any Washington Consumer as a result of any residential mortgage loans that Respondent originated
8 but did not fund.

9 **4.8** Respondent shall maintain all required records at approved locations and shall allow the
10 Department free access to examine these records as required by the Act.

11 **4.9** Nothing in this Order shall prevent Respondent from selling or assigning residential mortgage loans
12 to another entity, servicing closed mortgage loans, or engaging in other lawful activity not prohibited herein.

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

C-09-233-09-TD01

TAYLOR, BEAN & WHITAKER
MORTGAGE CORP.

NOTICE OF OPPORTUNITY TO DEFEND
AND OPPORTUNITY FOR HEARING

Respondent.

THE STATE OF WASHINGTON TO: Taylor, Bean & Whitaker Mortgage Corp.

YOU ARE HEREBY NOTIFIED that a Temporary Order to Cease and Desist has been filed by the Department of Financial Institutions, a true and correct copy of which is attached and made a part hereof.

YOU ARE HEREBY NOTIFIED that you may file an application for an adjudicative hearing before the Washington State Department of Financial Institutions to contest the Temporary Order to Cease and Desist.

YOUR APPLICATION MUST BE RECEIVED BY THE DEPARTMENT OF FINANCIAL INSTITUTIONS

WITHIN TWENTY (20) DAYS FROM THE DATE THIS NOTICE WAS SERVED ON YOU. Service on you is deemed complete upon posting in the U.S. mail, postage prepaid, to your last known address. If you demand a hearing, you will be notified of the time and place for the hearing at least seven (7) days in advance of the hearing date.

At the hearing, you may appear personally, and by counsel, if you desire. The hearing will be as informal as is practical within the requirements of the Administrative Procedure Act (see chapter 34.05 RCW). The hearing will be recorded. The primary concern will be getting to the truth of the matter insofar as the Temporary Order is concerned. Technical rules of evidence will not be binding at the hearing except for the rules of privilege recognized by law. You have the right to present evidence and witnesses in your own behalf, and to cross-examine those witnesses presented in support of the Temporary Order to Cease and Desist. You may require the attendance of witnesses by subpoena. If you are limited English-speaking or hearing impaired, you have the right to have an interpreter appointed at no cost to you, as discussed below.

