

BEFORE THE ARKANSAS SECURITIES COMMISSIONER

CASE NO. C-09-057

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ARKANSAS SECURITIES DEPT

IN THE MATTER OF:

ORDER NO. C-09-057-09-SO01

TAYLOR, BEAN & WHITAKER  
MORTGAGE CORP.

RESPONDENT

**ORDER SUMMARILY SUSPENDING MORTGAGE BANKER  
LICENSE OF TAYLOR, BEAN & WHITAKER MORTGAGE CORP.**

On August 10, 2009, the Staff of the Arkansas Securities Department (“Staff”) submitted its Request for Revocation of License and for Temporary Suspension of License Pending Hearing (“Request”). The Request alleges that Taylor, Bean & Whitaker Mortgage Corp., (“TB&W”) violated various provisions of the Fair Mortgage Lending Act (“Act”), Ark. Code Ann. §§ 23-39-501 through 23-39-518, seeks a revocation of TB&W’s mortgage banker and mortgage servicer license, and requests a temporary suspension of the mortgage banker license pending a hearing on the revocation of license. The Arkansas Securities Commissioner (“Commissioner”) has reviewed the Request and in reliance upon the facts alleged therein, finds:

**FINDINGS OF FACT**

1. The Staff’s Request asserts the following representations of fact:
  - a. TB&W is a corporation organized and existing under the laws of Florida, with its principal place of business located at 315 NE 14<sup>th</sup> Street, Ocala, Florida 34470. TB&W has been licensed with the Arkansas Securities Department since October 23, 2000, as a mortgage banker and mortgage servicer.  
  
TB&W’s license is scheduled to expire on December 31, 2009.

- b. On or about August 5, 2009, the Staff was made aware of a Notice of Administrative Action, Immediate Suspension issued by David H. Stevens, Assistant Secretary for Housing, Federal Housing Commissioner, Chairman Mortgagee Review Board against TB&W immediately suspending the HUD/FHA origination and underwriting approval for TB&W.
- c. On or about August 5, 2009, the Staff was made aware of a news release issued by the Department of Housing and Urban Development (“HUD”) that the Federal Housing Administration (“FHA”) had suspended TB&W from underwriting and originating loans insured by the FHA, and terminated TB&W as an issuer of mortgage backed securities to the Government National Mortgage Association (“GNMA”).
- d. The press release further stated that the suspension was as a result of TB&W’s failure to comply with HUD regulations regarding the submission of financial statements and the submission of a false certification or misleading information to GNMA.
- e. TB&W issued a press release on August 5, 2009, stating that effective immediately TB&W was ceasing all mortgage loan origination operations, and that TB&W would not close or fund the mortgage loans currently in the pipeline.
- f. On or about August 6, 2009, Steven L. Antonakes, Commissioner of Banks with the Commonwealth of Massachusetts issued a Findings of Fact and Temporary Cease and Desist Order against TB&W ordering TB&W to cease and desist from mortgage loan origination activity in Massachusetts.

- g. On or about August 6, 2009, Ryan Walsh, Administrator of the Department of Banking, Bureau of Compliance, Investigation and Licensing with the Commonwealth of Pennsylvania issued an Order against TB&W ordering TB&W to cease and desist from mortgage loan origination activity in Pennsylvania.
- h. On or about August 6, 2009, Neil N. Jasey, Commissioner of the New Jersey Department of Banking and Insurance issued an Order to Cease and Desist and to Take Certain Actions and Order to Show Cause Why Licenses Should not be Revoked, Certain Persons Barred and Penalties Imposed against TB&W ordering TB&W to cease and desist from mortgage loan origination activity in New Jersey.
- i. On or about August 7, 2009, John S. Allison, Commissioner of the Mississippi Department of Banking and Consumer Finance issued an Order to Cease and Desist Certain Activities and to take Certain Actions against TB&W ordering TB&W to cease and desist from mortgage loan origination activity in Mississippi.
- j. On or about August 7, 2009, Linda B. Charity, Acting Commissioner of the Florida Office of Financial Regulation issued an Emergency Order to Cease and Desist and Notice of Rights against TB&W ordering TB&W to cease and desist from mortgage loan origination activity in Florida.
- k. On or about August 10, 2009, Joseph A. Smith, Jr., the North Carolina Commissioner of Banks issued a Cease and Desist Order against TB&W to cease and desist from mortgage loan origination activity in North Carolina.

1. The Staff has evidence that TB&W has unfunded mortgage loans for at least seven Arkansas consumers. By failing to disburse funds in accordance with a written commitment to make a mortgage loan, said seven Arkansas consumers, as well as other possible Arkansas consumers, will be harmed.

### **CONCLUSIONS OF LAW**

2. Each person licensed under the Act has the duty to act with reasonable skill, care, and diligence. Ark. Code Ann. § 23-39-510(3).
3. The Commissioner may by order deny, suspend, revoke, or refuse to issue or renew a license of a licensee if the Commissioner finds that the order is in the public interest and the licensee is subject of an order denying, suspending, or revoking a licensee's authority to engage in a regulated activity by any other state or federal authority within the last five years. Ark. Code Ann. § 23-39-514(a)(1) and (a)(2)(F). The various orders entered against TB&W by state and federal authorities warrant the issuance of an order to temporarily suspend the mortgage banker license of TB&W.
4. The Commissioner may summarily suspend the license of a licensee pending final determination of any proceeding under Ark. Code Ann. § 23-39-514. Ark. Code Ann. § 23-39-514(c)(1). Based upon the Findings of Fact and the Conclusions of Law, it is in the public interest to suspend the mortgage banker license of TB&W pending a final determination of the revocation of TB&W's mortgage banker and mortgage servicer license as sought by the Staff in its Request, and therefore, this Order is appropriate according to Ark. Code Ann. § 23-39-514(c)(1).

## ORDER

5. IT IS HEREBY ORDERED that TB&W and all employees of TB&W immediately cease and desist from accepting, soliciting, and negotiating applications for mortgage loans, issuing mortgage loan commitments or interest rate guarantee agreements from/with Arkansas consumers, and from advertising mortgage loan activity, and issuing mortgage loan commitments in the State of Arkansas. TB&W shall immediately cease and desist from accepting any new servicing rights for Arkansas consumers.
  
6. IT IS FURTHER ORDERED that the Staff continue its investigation into the matters raised in the Request, and any ancillary matters that may arise from the Staff's investigation. As part of the investigation, TB&W is hereby ORDERED to provide a detailed report, as of the date of submission, of all TB&W's pending residential mortgage loan applications to be secured by Arkansas residential real property. This report should include, but not be limited to:
  - (a) All Arkansas mortgage loans that have closed by TB&W, but have not yet been funded;
  - (b) All Arkansas mortgage loans that have been approved by TB&W but that have not been closed; and
  - (c) All Arkansas mortgage loan applications that have been received by TB&W, but no commitment has been issued.
  - (d) This report shall also include the following information:
    - i. The name, address, and telephone number of the applicant;
    - ii. The loan number;

- iii. The amount of all prepaid loan fees submitted by the applicant;
- iv. The loan amount, and loan terms if approved;
- v. The rate lock status;
- vi. The status of the loan;
- vii. The purpose of the loan;
- viii. Contact information for the mortgage broker, if other than TB&W;
- ix. Status of the resolution for the loan;
- x. Contact information for the mortgage broker or mortgage banker where the loan is placed, should TB&W not fund the loan

This report shall be supplemented upon any substantive change to the report in the matters identified in paragraphs 6(a) and 6(b) of the Order. This reporting requirement shall continue until each approved loan is closed.

- 7. IT IS FURTHER ORDERED TB&W shall continue to service all Arkansas residential mortgage loans or in the alternative transfer such servicing rights on Arkansas residential mortgage loans to another licensed Arkansas mortgage servicer or exempt entity pending a hearing on the Staff's Request.
- 8. This Order shall remain in full force and effect pending a hearing on the Staff's Request currently scheduled for **September 21, 2009 at 10:30 a.m., central time.** Should TB&W desire an expedited hearing on this Order, a written request should be made to the Commissioner within thirty days of the date that this Order is sent to the Respondent's address by first class mail, postage prepaid. Ark. Code Ann. § 23-39-514(c)(3). Such request should be address to the Commissioner and submitted to the following address:

Arkansas Securities Commissioner  
201 East Markham  
Suite 300  
Little Rock, Arkansas 72201

IT IS SO ORDERED.



A. Heath Abshire  
Arkansas Securities Commissioner

August 18, 2009  
Date

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