

COMPOSITE EXHIBIT D PART 11

IN THE MATTER OF:

* BEFORE THE MARYLAND

TAYLOR, BEAN, & WHITAKER
MORTGAGE CORP.

* COMMISSIONER OF

* FINANCIAL REGULATION

Respondent

*

* * * * *

SUMMARY ORDER TO CEASE AND DESIST

WHEREAS, pursuant to the Annotated Code of Maryland, Financial Institutions Article (“FI”), § 11-501 *et seq.* (the Maryland Mortgage Lender Law, or “MMLL”), the Maryland Commissioner of Financial Regulation (the “Commissioner”) is responsible for licensing and regulating, *inter alia*, the activities of mortgage lenders with regard to consumer loans secured by residential real property located in the State of Maryland (the “State”); and

WHEREAS, at all times relevant to the facts set forth herein, Taylor, Bean & Whitaker Mortgage Corp. (hereinafter “TBW” or “Respondent”), located at 315 NE 14th Street, Ocala, Florida, has been duly licensed under the MMLL as a Maryland mortgage lender engaged in the mortgage lending business as those terms are defined in FI § 11-501(j) and (k), respectively, holding multiple branch MMLL licenses, with Respondent’s licenses including, but not limited to, License Numbers 06-7467, 06-18297, 06-10330, 06-10331, 06-10332, and 06-10333.; and

WHEREAS, the Commissioner finds grounds to allege that Respondent has engaged in, or is engaging in, or is about to engage in, acts or practices constituting violations of the MMLL and associated regulations, and that action under FI §§ 2-115 and 11-517 is appropriate.

NOW, THEREFORE, the Commissioner has determined, for the reasons set forth below, that it is in the public interest that Respondent immediately Cease and Desist from originating, brokering, or funding, or from accepting any new servicing rights for, Maryland residential mortgage loans; and that it is in the public interest that Respondent be required to transfer all servicing rights for Maryland residential mortgage loans which it currently services within 120 days or demonstrate that it meets Maryland's licensing requirements, but that Respondent shall be required to continue servicing these Maryland mortgage loans until the servicing rights for all such loans have been transferred:

1. On August 4, 2009, the U.S. Department of Housing and Urban Development ("HUD") issued a press release which indicated the following: that the Federal Housing Administration ("FHA") had suspended TBW from originating and underwriting new FHA-insured mortgages; that the Government National Mortgage Association ("Ginnie Mae") was defaulting and terminating TBW as an issuer in Ginnie Mae's Mortgage-Backed Securities program and was terminating TBW's ability to continue to service Ginnie Mae securities. The press release further indicated that FHA and Ginnie Mae were imposing these suspensions as a result of the following: TBW had failed to submit a required annual financial report; TBW had "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;" and TBW's "failure to disclose, and its false certifications concealing, that it was the subject of two examinations into its business practices last year...."

2. TBW announced in a press release on August 5, 2009 that, as a result of being notified on August 4, 2009 by HUD, Freddie Mac, and Ginnie Mae that "it was

being terminated and/or suspended as an approved seller and/or servicer for each of these respective federal agencies,” TBW was required to “cease all origination operations effective immediately.” TBW’s press release further stated that, as a result of these actions, TBW “will not be able to close or fund any mortgage loans currently pending in its pipeline....”

3. On August 6, 2009, representatives from the Office of the Commissioner and representatives from other State regulators participated in a telephone conference call with Jeffery W. Cavender, Esquire, TBW’s General Counsel, to discuss the current financial condition of TBW. Mr. Cavender stated that, as of August 5, 2009, TBW had ceased all origination, processing, and underwriting operations, had terminated all non-essential employees, and would not be funding any more loans including loans that were already scheduled for closing. The Office of the Commissioner also learned that TBW was actively investigating the possibility of filing for bankruptcy protection in Federal Court.

4. Following this conference call, Mr. Cavender provided a pipeline report listing 1,008 loans totaling approximately \$214 million, including 34 Maryland residential mortgage loans that had previously been scheduled by TBW for closing, but which had not been – and now would not be – funded by TBW. This pipeline report did not include all pending loans at earlier stages in the lending process, such as applications received or commitments issued.

5. The Office of the Commissioner is further aware that TBW currently services an unknown number of Maryland residential mortgage loans for others.

6. Pursuant to FI § 11-508.1(a)(iv), TBW is required to maintain a net worth requirement of \$250,000.

7. Pursuant to FI § 11-513, TBW is required to preserve all books and records related to the application, making, brokering, and servicing of all Maryland residential mortgage loans for at least 25 months, and to make those books and records available to the Commissioner at TBW's place of business.

8. Pursuant to the Code of Maryland Regulations ("COMAR") 09.03.06.10A(1), TBW is obligated to disburse all loan proceeds in a timely manner as provided in the loan documents.

9. Pursuant to COMAR 09.03.06.20A, TBW has a duty of good faith and fair dealing in communications, transactions, and course of dealings with a borrower in connection with the advertisement, solicitation, making, servicing, purchase, or sale of any mortgage loan.

10. Pursuant to COMAR 09.03.06.20A(3), TBW has a duty when servicing mortgage loans to:

- (a) Promptly provide borrowers with an accurate accounting of the debt owed when borrowers request an accounting;
- (b) Make borrowers in default aware of loss mitigation options and services offered by the licensee;
- (c) Provide trained personnel and telephone facilities sufficient to promptly answer and respond to borrower inquiries regarding their mortgage loans; and
- (d) Pursue loss mitigation when possible.

11. Given TBW's current financial condition and dismissal of most company personnel, TBW no longer meets the qualifications to be licensed as a mortgage lender in the State of Maryland, including but not limited to, the net worth requirements set forth in FI § 11-508.1(a).

12. Additionally, given TBW's current financial condition and dismissal of most company personnel, Maryland consumers doing business with TBW would face the imminent harm of not having their mortgage loans closed and/or funded by TBW as agreed to by the parties, in violation of 09.03.06.10A(1), and of otherwise having TBW breach the duty of good faith and fair dealings with regard to the funding and/or closing of their mortgage loans, in violation of 09.03.06.20A.

13. Further, given TBW's current financial condition and dismissal of most company personnel, Maryland consumers with mortgage loans currently being serviced by TBW face imminent harm from the strong possibility of TBW ceasing operations altogether, thereby failing to continue to service their mortgage loans, or from TBW otherwise breaching the duty of good faith and fair dealings required with regard to the servicing of their mortgage loans, in violation of 09.03.06.20A(3).

WHEREFORE, having determined that immediate action is in the public interest, and pursuant to the aforementioned provisions of the Annotated Code of Maryland, it is, by the Maryland Commissioner of Financial Regulation, **HEREBY**

ORDERED that Respondent shall immediately **CEASE AND DESIST** from accepting any new Maryland residential mortgage loan applications; and it is further

ORDERED that Respondent shall **CEASE AND DESIST** from violating COMAR 09.03.06.10A(1) by failing to fund and disburse funds for mortgage loans already approved by Respondent according to the terms of the loan documents, and that Respondent **SHALL FUND** all such approved loans; and it is further

ORDERED that Respondent shall immediately CEASE AND DESIST from accepting any new servicing rights for Maryland residential mortgage loans; and it is further

ORDERED that, within 120 days of the date of this Summary Order to Cease and Desist, Respondent SHALL TRANSFER all servicing rights for those Maryland residential mortgage loans which Respondent currently services to another duly licensed Maryland mortgage servicer, unless Respondent can demonstrate to the Commissioner's satisfaction, prior to the expiration of this 120 day transfer deadline, that Respondent meets Maryland's licensing requirements for mortgage lenders; and it is further

ORDERED that Respondent SHALL CONTINUE SERVICING all residential Maryland mortgage loans which Respondent currently services until all such loans have been properly transferred to another duly licensed Maryland mortgage servicer, notwithstanding the 120 day transfer deadline specified above; and it is further

ORDERED that Respondent SHALL MAINTAIN its current surety bond of \$750,000 pursuant to FI § 11-508 for as long as it continues to conduct any mortgage-related business activities in Maryland; and it is further

ORDERED that Respondent SHALL PRESERVE all books and records related to the application, making, brokering, and servicing of all Maryland residential mortgage loans for at least 25 months, and that Respondent SHALL make those books and records available to the Commissioner at Respondent's place of business; and it is further

ORDERED that Respondent shall immediately CEASE AND DESIST from violating the aforementioned Maryland State laws and regulations, including, but not limited to, the Maryland Mortgage Lender Law, and COMAR 09.03.06.10A(1),

09.03.06.20A, and 09.03.06.20A(3); and that Respondent should be assessed statutory monetary penalties and directed to make restitution based on those violations.

FURTHERMORE,

RESPONDENT IS HEREBY NOTIFIED that, pursuant to FI §§ 2-115, 11-517(c), and 11-518, Respondent is entitled to a hearing before the Commissioner to determine whether this Summary Order to Cease and Desist should be vacated, modified, or entered as a Final Order of the Commissioner; and further,

RESPONDENT IS HEREBY NOTIFIED that, pursuant to FI §§ 2-115, 11-517(c), and 11-518, this Summary Order to Cease and Desist will be entered as a Final Order of the Commissioner if Respondent does not request a hearing within 30 days of the receipt of this document; and further,

RESPONDENT IS HEREBY NOTIFIED that, pursuant to the Annotated Code of Maryland, State Government Article (“SG”), §§ 9-1607.1 and 10-206.1, and in accordance with SG § 10-207(b)(4), Respondent is only permitted to appear at a hearing through an attorney authorized to practice law in Maryland at the Respondent’s own expense; and further,

RESPONDENT IS HEREBY NOTIFIED that any and all requests for a hearing in this matter must conform to the requirements stated above, must be made in the form of a signed, written request, and must be submitted to the following address:

Enforcement Unit, Administrator
Office of the Commissioner of Financial Regulation
500 North Calvert Street, Suite 402
Baltimore, Maryland 21202;

and further,

RESPONDENT IS HEREBY NOTIFIED that, if a hearing is properly requested in this matter, the hearing will be conducted pursuant to FI § 11-518, SG § 10-201, *et seq.* (the “Administrative Procedure Act”), and COMAR 09.01.02 and 03; further, pursuant to COMAR 09.01.02, applicable procedures will include, but are not limited to, the following: a copy of the hearing procedure is available to Respondent upon request, and without cost; Respondent may subpoena and call witnesses; Respondent may cross examine those witnesses called against it; Respondent is entitled to introduce documentary evidence in its defense; and if Respondent fails to appear, the hearing may proceed in Respondent’s absence, and a determination may be made regarding the validity of the allegations against it; and further,

RESPONDENT IS HEREBY NOTIFIED that, pursuant to FI § 2-115(b), as a result of a hearing, or of Respondent’s failure to correctly request a hearing in the manner described above, the Commissioner may, in the Commissioner’s discretion and in addition to taking any other action authorized by law, take the following actions: enter an order making this Cease and Desist Order final; suspend or revoke Respondent’s mortgage lender license(s); impose a civil penalty against Respondent up to \$1,000 for each violation of the Maryland Mortgage Lender Law (“MMLL”) and up to \$1,000 for each violation of a regulation (i.e. of COMAR) promulgated pursuant to the MMLL; impose a civil penalty against Respondent up to \$5,000 for each subsequent violation of these laws or regulations; or may take any combination of the aforementioned actions against Respondent. Pursuant to FI § 11-517(c), the Commissioner may impose a civil penalty up to \$5,000 for each violation of the MMLL and up to \$5,000 for each violation of a regulation promulgated pursuant to the MMLL, and may order Respondent to take affirmative action

to correct such violations, including restitution of money or property to any persons aggrieved by the violations.

MARYLAND COMMISSIONER OF
FINANCIAL REGULATION

Aug 10, 2009
Date

Mark Kaufman by JER
By: Mark Kaufman
Deputy Commissioner