

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

In re:

TAYLOR, BEAN & WHITAKER
MORTGAGE CORP., REO SPECIALISTS,
LLC and HOME AMERICA MORTGAGE,
INC.,

Debtors.

Chapter 11

Case No. 3:09-bk-07047-JAF
Case No. 3:09-bk-10022-JAF
Case No. 3:09-bk-10023-JAF

In re:

TAYLOR, BEAN & WHITAKER
MORTGAGE CORP.,

Applicable Debtor.

Case No. 3:09-bk-07047-JAF

**MOTION TO APPROVE CONSENT ORDER IN
CONNECTION WITH THE SALE OF CERTAIN OF THE
DEBTOR'S MORTGAGE LOANS**

TAYLOR, BEAN & WHITAKER MORTGAGE CORP., as debtor and debtor in possession (“**Taylor Bean**” or the “**Debtor**”), by and through its undersigned counsel, hereby moves this Court, pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure, for an order approving the consent order between Taylor Bean and the Connecticut Department of Banking (the “**Motion**”). In support of its Motion, the Debtor respectfully represents as follows:

1. On December 10, 2010, the Debtor filed with the Court its *Motion for an Order (I) Approving the Sale of Certain Mortgage Loans Free and Clear of All Liens, Claims and Interests, (II) Approving Bidding Procedures and Terms of Auction, (III) Setting Hearing Date for Approval of Proposed Sale, (IV) Fixing Deadline for Objections to Proposed Sale, (V) Approving Form and Manner of Service for Sale Notice and Procedures Order,*

(VI) *Approving Stalking Horse Protections*, (VII) *Authorizing Expense Reimbursement and (VIII) Granting Related Relief* (the “**Sale Motion**”) [Docket No. 2263].

2. As outlined in the Sale Motion, the Debtor and Selene Finance LP (“**Selene**”) entered into a Mortgage Loan Purchase and Sale Agreement, dated December 10, 2010, and attached to the Sale Motion as Exhibit A (the “**Stalking Horse Agreement**”) whereby Selene agreed to purchase the Debtor’s rights and interests in approximately 678 mortgage loans (the “**Mortgage Loans**”).

3. Certain Mortgage Loans contemplated under the Stalking Horse Agreement are subject to C&D Orders¹ issued by four states: Connecticut, Illinois, Kentucky, and North Carolina (the “**C&D Mortgage Loans**”). The C&D orders restrict the ability of the Debtor or other party to foreclosure or otherwise take certain action with respect to the underlying collateral securing the C&D Mortgage Loans. Pursuant to the Stalking Horse Agreement, Selene could elect, on or before January 10, 2011 (the “**C&D Withdrawal Date**”), to withdraw from the Mortgage Loan Schedule those C&D Mortgage Loans where no Vacation Agreement had been issued by the respective state.

4. As of the C&D Withdrawal Date, the Debtor had not obtained Vacation Agreements with respect to the C&D Mortgage Loans from any issuing state. Therefore, the Debtor and Selene amended the Stalking Horse Agreement pursuant to the terms of a First Amendment to Mortgage Loan Purchase and Sale Agreement (the “**Amendment**”). The Amendment was filed with the Court on January 18, 2011 [Docket No. 2490].

¹ All capitalized terms not defined herein shall have the meaning ascribed thereto in the Stalking Horse Agreement.

5. The material provisions of the Amendment provide that Selene, rather than withdrawing the C&D Mortgage Loans from the Mortgage Loan Schedule, will defer closing on the C&D Mortgage Loans (the “**Deferred Purchase Mortgage Loans**”). If, on or before March 15, 2011, a state enters into a Vacation Agreement with regard to the respective C&D Mortgage Loans, the closing of such Deferred Purchase Mortgage Loans shall occur within five (5) business days after delivery of the Vacation Agreement to the Debtor. If, however, any issuing state has not entered into a Vacation Agreement with regard to the respective C&D Mortgage Loans on or before March 15, 2011, Selene shall be deemed to have withdrawn from the Mortgage Loan Schedule all of the Deferred Purchase Mortgage Loans originating from such state. Those Deferred Mortgage Loans removed from the Mortgage Loan Schedule shall be deemed Purchaser Excluded Mortgage Loans, Selene’s right and obligation to purchase such Deferred Purchase Mortgage Loans shall terminate, and any deposit remaining with respect to such Deferred Purchase Mortgage Loans shall be returned to Selene.

6. The Debtor received no additional bids with respect to the Mortgage Loans, and the sale of the Mortgage Loans to Selene was approved by order of the Court, entered on February 4, 2011 [Docket No. 2630] (the “**Sale Order**”).

7. Following entry of the Sale Order, the Debtor reached an agreement with the Connecticut Banking Commissioner regarding the C&D Orders issued by Connecticut. The terms and conditions of the agreement were memorialized in a Consent Order attached hereto as Exhibit A (the “**Consent Order**”).

8. The material terms of the consent order provide that: (i) Taylor Bean is permanently barred from obtaining a license from the Connecticut Banking Commissioner and

(ii) any language prohibiting Taylor Bean, any servicer, or purchaser of mortgage loans currently or previously owned, originated, or serviced by Taylor Bean from commencing or proceeding with foreclosure proceedings shall be null and void.

9. The Consent Order is expressly conditioned upon Bankruptcy Court approval.

10. The Debtor has determined that approval of the Consent Order is in the best interests of the Debtor's estate and creditors, as its terms will likely lead to an increased monetary recovery for the sale of the Mortgage Loans.

WHEREFORE, the Debtor respectfully requests that the Court enter an order:

- A. approving the Consent Order; and
- B. providing such other and further relief as is just and proper.

Dated this 28th day of February 2011.

/s/ Jeffrey W. Kelley
Jeffrey W. Kelley (Ga. Bar No. 412296)
jeffrey.kelley@troutmansanders.com
TROUTMAN SANDERS LLP
Bank of America Plaza
Suite 5200
600 Peachtree Street, N.E.
Atlanta, Georgia 30308-2216
Telephone No.: (404) 885-3000
Facsimile No.: (404) 885-3900
Special Counsel for Debtor

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

In re:

TAYLOR, BEAN & WHITAKER
MORTGAGE CORP., REO SPECIALISTS,
LLC and HOME AMERICA MORTGAGE,
INC.,

Debtors.

In re:

TAYLOR, BEAN & WHITAKER
MORTGAGE CORP.,

Applicable Debtor.

Chapter 11

Case No. 3:09-bk-07047-JAF
Case No. 3:09-bk-10022-JAF
Case No. 3:09-bk-10023-JAF

Case No. 3:09-bk-07047-JAF

CERTIFICATE OF SERVICE

I, Jeffrey W. Kelley, certify that I am over the age of 18 and that, on February 28, 2011, I caused a copy of the foregoing *Motion to Approve Consent Order in Connection with the Sale of Certain of the Debtor's Mortgage Loans* to be served upon those persons or entities receiving notice through this Court's CM/ECF system.

/s/ Jeffrey W. Kelley

Troutman Sanders LLP
(404) 885-3000

EXHIBIT A



STATE OF CONNECTICUT
DEPARTMENT OF BANKING

260 CONSTITUTION PLAZA • HARTFORD, CT 06103-1800



Howard F. Pitkin

Commissioner

*
IN THE MATTER OF: *
*
TAYLOR, BEAN & WHITAKER *
MORTGAGE CORP. *
*
(“Taylor, Bean & Whitaker”) *
*

CONSENT ORDER

RECEIVED
STATE OF CONN.
DEPARTMENT OF BANKING
2011 FEB 14 A 9:35

PRELIMINARY STATEMENT

WHEREAS, the Banking Commissioner (“Commissioner”) is charged with the administration of Part I of Chapter 668, Sections 36a-485 to 36a-534c, inclusive, of the Connecticut General Statutes, “Mortgage Lenders, Correspondent Lenders, Brokers and Loan Originators”;

WHEREAS, the Commissioner, through the Consumer Credit Division (“Division”) of the Department of Banking, conducted an investigation pursuant to Section 36a-17 of the Connecticut General Statutes into the activities of Taylor, Bean & Whitaker to determine whether it had violated, was violating or was about to violate the provisions of the Connecticut General Statutes within the jurisdiction of the Commissioner;

WHEREAS, on August 10, 2009, the Commissioner, acting pursuant to Sections 36a-52(b) of the Connecticut General Statutes, Sections 36a-494(a)(1)(C), 36a-494(a)(1)(D) and 36a-494(b) of the Connecticut General Statutes, as amended by Public Act 09-209, and Sections 36a-51, 36a-52(a) and 36a-50(a) of the Connecticut General Statutes, issued a Temporary Order to Cease and Desist, Notice of Intent to Revoke Mortgage Lender Licenses, Notice of Intent to Issue Order to Cease and Desist, Notice of Intent to Impose Civil Penalty and Notice of Right to Hearing (collectively “Order”) against Taylor, Bean & Whitaker, alleging that Taylor, Bean & Whitaker failed to fund at least 15 residential mortgage

TEL: (860) 240-8299
FAX: (860) 240-8178

An Affirmative Action/Equal Opportunity Employer
website: <http://www.ct.gov/dob>

loans, which constitutes a failure to perform an agreement with borrowers, and failed to pay the loan proceeds for at least 110 residential mortgages, which Order is incorporated herein by reference;

WHEREAS, on August 21, 2009, the Commissioner, acting pursuant to Sections 36a-52(b) of the Connecticut General Statutes, Sections 36a-494(a)(1)(C), 36a-494(a)(1)(D) and 36a-494(b) of the Connecticut General Statutes, as amended, Sections 36a-51, 36a-52(a) and 36a-50(a) of the Connecticut General Statutes and Section 36a-1-22 of the Regulations of Connecticut State Agencies, issued an Amended and Restated Temporary Order to Cease and Desist, Amended and Restated Notice of Intent to Revoke Mortgage Lender Licenses, Amended and Restated Notice of Intent to Issue Order to Cease and Desist, Amended and Restated Notice of Intent to Impose Civil Penalty and Notice of Right to Hearing (collectively "Amended Order") against Taylor, Bean & Whitaker, re-alleging that Taylor, Bean & Whitaker failed to fund at least 15 residential mortgage loans, which constitutes a failure to perform an agreement with borrowers, and failed to pay the loan proceeds for at least 110 residential mortgage loans, set forth certain reporting and internal control requirements on Taylor, Bean & Whitaker, required the transfer of servicing rights of any Connecticut residential mortgage loan serviced by Taylor, Bean & Whitaker, and ordered Taylor, Bean & Whitaker to cease and desist from commencing or proceeding with foreclosures against any residential mortgage loans serviced by Taylor, Bean & Whitaker, which Amended Order is incorporated herein by reference;

WHEREAS, on September 25, 2009, the Commissioner, acting pursuant to Sections 36a-52(b) and 4-182(c) of the Connecticut General Statutes, Sections 36a-494(a)(1), 36a-494(a)(1)(C) and 36a-494(b) of the Connecticut General Statutes, as amended, and Sections 36a-51 and 36a-52(a) of the Connecticut General Statutes, issued a Temporary Order to Cease and Desist, Order of Summary Suspension, Notice of Intent to Revoke Mortgage Lender Licenses, Notice of Intent to Issue Order to Cease and Desist and Notice of Right to Hearing against Taylor, Bean & Whitaker (collectively, "September Notice"), alleging that Taylor, Bean & Whitaker failed to maintain surety bonds that ran concurrently with the period of its mortgage lender licenses for 950 South Winter Park Drive, Suite 120, Casselberry, Florida; 3950 Premier North Drive, Tampa, Florida; 814 Highway A1A North, Suite 205, Ponte Vedra Beach, Florida;

35 Braintree Hill Park, Suite 402, Braintree, Massachusetts; and 755 Business Center Drive, Suite 150, Horsham, Pennsylvania, in violation of Connecticut law, which September Notice is incorporated herein by reference;

WHEREAS, on October 27, 2009, the Commissioner, acting pursuant to Section 36a-492(c) of the Connecticut General Statutes, as amended by Public Acts 09-208 and 09-209, Section 36a-52(b) of the Connecticut General Statutes, Sections 36a-494(a)(1), 36a-494(a)(1)(C) and 36a-494(b) of the Connecticut General Statutes, as amended, and subsections (a) and (b) of Section 36a-51 and Section 36a-52 of the Connecticut General Statutes, issued a Notice of Automatic Suspension, Temporary Order to Cease and Desist, Notice of Intent to Revoke Mortgage Lender License, Notice of Intent to Issue Order to Cease and Desist and Notice of Right to Hearing (collectively, "October Notice") against Taylor, Bean & Whitaker, alleging that Taylor, Bean & Whitaker failed to maintain a surety bond that ran concurrently with the period of its mortgage lender license for 560 South Line Road, Lecanto, Florida, in violation of Connecticut law, which October Notice is incorporated herein by reference;

WHEREAS, on August 17, 2009, Taylor, Bean & Whitaker received the Order;

WHEREAS, on September 8, 2009, Taylor, Bean & Whitaker received the Amended Order;

WHEREAS, on November 3, 2009, Taylor, Bean & Whitaker received the September Notice;

WHEREAS, on November 2, 2009, Taylor, Bean & Whitaker received the October Notice;

WHEREAS, on September 2, 2009, Taylor, Bean & Whitaker requested a hearing on the Amended Order, which is currently subject to an open-ended continuance;

WHEREAS, on August 24, 2009, Taylor, Bean & Whitaker filed a Voluntary Petition for relief under Chapter 11 in the United States Bankruptcy Court for the Middle District of Florida, Jacksonville Division, and is currently engaged in the winding down of its business operations ("Winding Down");

WHEREAS, Taylor, Bean & Whitaker represents that it was the largest independent (*i.e.*, non-depository owned) mortgage lender in the United States and that its principal business comprised the following:

- Origination, underwriting, processing and funding of conforming conventional and government-insured residential mortgage loans;
- Sale of mortgage loans into the “secondary market”, principally to government-sponsored enterprises such as the Federal Home Loan Mortgage Corporation or the Government National Mortgage Association; and
- Mortgage payment processing and loan servicing.

WHEREAS, on or about August 5, 2009, a hold was placed on Taylor, Bean & Whitaker’s accounts at Colonial Bank, N.A. (“Colonial Bank”), including those used by Taylor, Bean & Whitaker in its mortgage servicing operations; therefore, August 4, 2009, was the last day Taylor, Bean & Whitaker was able to access its accounts at Colonial Bank;

WHEREAS, pursuant to an order of the Alabama State Banking Department dated August 14, 2009, Colonial Bank was closed and the Federal Deposit Insurance Corporation (“FDIC”) was appointed as Colonial Bank’s receiver;

WHEREAS, Taylor, Bean & Whitaker also represents that these events resulted in a myriad of problems for Taylor, Bean & Whitaker and ultimately resulted in more than 40 regulatory actions against Taylor, Bean & Whitaker brought by approximately 26 states;

WHEREAS, a written stipulation between Taylor, Bean & Whitaker and the FDIC was approved by the United States Bankruptcy Court in orders entered September 29, 2009 and October 16, 2009 [Docket Nos. 348 & 468];

WHEREAS, on February 24, 2010, an Order Establishing Protocol to Resolve Borrower Issues (“Borrower Protocol”) was entered by the Bankruptcy Court [Docket No. 1079]. The Borrower Protocol addresses several issues, including insurance proceeds, tax and insurance escrow refunds, bounced checks written on Platinum Escrow Disbursement Clearing Accounts and net-funded loans;

WHEREAS, Taylor, Bean & Whitaker's Final Reconciliation Report, dated July 1, 2010 [Docket No. 1644], also addressed consumer issues set forth in the Borrower Protocol referenced above;

WHEREAS, Taylor, Bean & Whitaker further represents that:

- a. In accordance with the Chapter 11 Bankruptcy Petition, *In re Taylor, Bean & Whitaker Mortgage Corp.*, Case No. 3:09-bk-07047, Taylor, Bean & Whitaker has been engaged in the Winding Down of its business operations and, at this time, has ceased acting in Connecticut and, that while the reconciliation of Taylor, Bean & Whitaker's accounts remains ongoing, Taylor, Bean & Whitaker anticipates that there will be a significant shortfall between its assets and liabilities in the bankruptcy case. Any fine, restitution or costs collected by the Department of Banking would reduce the money potentially available to investors and consumers for distribution in the bankruptcy; and
- b. Taylor, Bean & Whitaker is conducting no new origination of mortgage lending or brokerage activities in Connecticut. Taylor, Bean & Whitaker is not actively soliciting new servicing clients, nor is Taylor, Bean & Whitaker servicing already existing accounts;

WHEREAS, Taylor, Bean & Whitaker, through its execution of this Consent Order, voluntarily agrees to waive any rights to a hearing at which it would be entitled to legal representation, to confront and cross examine witnesses, and to present evidence on its own behalf upon the allegations contained in the Order, Amended Order, September Notice and October Notice, or to otherwise appeal or set aside the aforementioned Order, Amended Order, September Notice and October Notice;

WHEREAS, notwithstanding the foregoing, Taylor, Bean & Whitaker acknowledges that this Consent Order is a public record and constitutes, for the limited purposes of satisfying Taylor, Bean & Whitaker's disclosure obligations on its MU1, MU2 and MU4 Forms on the Nationwide Mortgage Licensing System, as applicable to Taylor, Bean & Whitaker, a finding by the Commissioner that Taylor, Bean & Whitaker has been involved in a violation of a financial services-related regulation or statute;

WHEREAS, Section 4-177(c) of the Connecticut General Statutes and Section 36a-1-55(a) of the Regulations of Connecticut State Agencies provide that a contested case may be resolved by consent order, unless precluded by law;

WHEREAS, Taylor, Bean & Whitaker and the Commissioner now desire to resolve the matters alleged in the Order, Amended Order, September Notice and October Notice;

AND WHEREAS, without determining the applicability of the automatic stay provision of the United States Bankruptcy Code, 11 U.S.C. § 362, Taylor, Bean & Whitaker agrees to the Commissioner's authority to enter the terms and conditions set forth in this Consent Order for the purpose of obviating the need for formal administrative proceedings concerning the allegations contained in the Order, Amended Order, September Notice and October Notice.

CONSENT TO ENTRY OF SANCTIONS

WHEREAS, Taylor, Bean & Whitaker, through its execution of this Consent Order, consents to the Commissioner's entry of a Consent Order imposing on Taylor, Bean & Whitaker the following sanction:

Taylor, Bean & Whitaker is **PERMANENTLY BARRED** from obtaining any license from the Commissioner and will not seek licensure from the Commissioner at any point in the future;

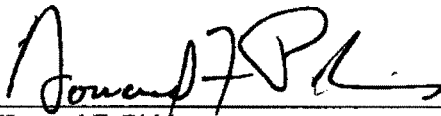
CONSENT ORDER

NOW THEREFORE, the Commissioner enters the following:

1. The Sanction set forth above be and is hereby entered;
2. Upon entry of this Consent Order, any and all language prohibiting Taylor, Bean & Whitaker and any servicers or purchasers of loans currently owned by Taylor, Bean & Whitaker, previously owned by Taylor, Bean & Whitaker, originated by Taylor, Bean & Whitaker, or previously serviced by Taylor, Bean & Whitaker, from commencing or proceeding with foreclosure proceedings shall be null and void.
3. Entry of this Consent Order by the Commissioner is without prejudice to the right of the Commissioner to take enforcement action against Taylor, Bean & Whitaker based upon a violation of this Consent Order or the matters underlying its entry, if the Commissioner determines that compliance with the terms herein is not being observed or if any representation made by Taylor, Bean & Whitaker and reflected herein is subsequently discovered to be untrue;
4. In the event that the Bankruptcy Court fails to approve this Consent Order, the Commissioner shall retain his right to take all enforcement actions he considers appropriate;

5. In the event of any enforcement action as specified in Paragraph 3 above, or in the event that the Bankruptcy Court fails to approve this Consent Order, nothing herein shall be construed as a waiver by Taylor, Bean & Whitaker of its right to pursue administrative remedies in any proceedings commenced by the Commissioner, including any and all rights to an administrative hearing, as well as any and all rights to appeal such administrative proceedings;
6. This Consent Order shall not preclude either party from asserting any rights or pursuing any remedies in the event that the Commissioner commences any proceedings against Taylor, Bean & Whitaker for acts or omissions not specifically addressed in this Consent Order, or for acts and/or omissions that do not arise from the facts or transactions addressed herein; and
7. This Consent Order shall become final upon approval of the Bankruptcy Court.

Issued at 10:00 Hartford, Connecticut
this 10:00 day of February 2011.



Howard F. Pitkin
Banking Commissioner

CONSENT TO ENTRY OF ORDER

I, Neil Luria, state on behalf of Taylor, Bean & Whitaker Mortgage Corp., that I have read the foregoing Consent Order; that I know and fully understand its contents; that I am authorized to execute this Consent Order on behalf of Taylor, Bean & Whitaker Mortgage Corp.; that Taylor, Bean & Whitaker Corp., agrees freely and without treat or coercion of any kind to comply with the terms and conditions stated herein; and that Taylor, Bean & Whitaker Mortgage Corp. consents to the issuance of this Consent Order.

By: [Signature]
Name: Neil L
Title: CRO
Taylor, Bean & Whitaker Mortgage Corp.

State of: NY
County of: Dutchess

On this the 11 day of February 2011, before me, DONNA DORIA, the undersigned officer, personally appeared Neil Luria, who acknowledged himself/herself to be the CRO of Taylor, Bean & Whitaker Mortgage Corp., a corporation, and that he/she as such CRO, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as CRO.

In witness whereof I hereunto set my hand.

[Signature]
Notary Public / Commissioner of the Superior Court
Date Commission Expires: 12/31/14

DONNA DORIA
Notary Public, State of New York
No. 4802733
Qualified in Dutchess County
Commission Expires Dec 31, 2014