

UNITED STATES BANKRUPTCY COURT
 MIDDLE DISTRICT OF FLORIDA
 JACKSONVILLE DIVISION
www.flmb.uscourts.gov

In re:

TAYLOR BEAN & WHITAKER
 MORTGAGE CORP.,

Case No. 3:09-bk-07047-JAF
 Chapter 11 Case

Debtor.

**SUMMARY OF FIRST AND FINAL APPLICATION FOR ALLOWANCE
 AND PAYMENT OF DEFERRED RESTRUCTURING FEE TO NAVIGANT CAPITAL
 ADVISORS, LLC FOR THE SERVICES OF THE CHIEF RESTRUCTURING OFFICER
AND OTHER SUPPORT PERSONNEL TO THE DEBTOR**

- | | | |
|----|---|--|
| 1. | Name of applicant: | Navigant Capital Advisors, LLC |
| 2. | Role of applicant: | Chief Restructuring Officer and Other Support Staff |
| 3. | Name of certifying professional: | Neil F. Luria |
| 4. | Date case filed: | August 24, 2009 |
| 5. | Date of application for employment: | August 24, 2009 [D.E. #13] |
| 6. | Date of order approving employment: | November 12, 2009 [D.E. #635]
<i>nunc pro tunc</i> to August 24, 2009 |
| 7. | If debtor's counsel, date of Disclosure of Compensation form: | N/A |
| 8. | Date of this application: | October 4, 2011 |
| 9. | Dates of services covered: | August 24, 2009 through July 21, 2011 |

Fees

10.	Total Deferred Restructuring Fee requested for this period (from Exhibit "1")	\$1,428,682.94
11.	Balance remaining in fee retainer account, not yet awarded	\$ 0.00
12.	Fees paid or advanced for this period	\$ 0.00
13.	Net amount of fee requested for this period	\$1,428,682.94¹
14.	Net award requested for this period	\$1,428,682.94
15.	Total fee and expense award requested	\$1,428,682.94

¹ In accordance with the Debtor's *Emergency Application for Approval of Agreement with Navigant Capital Advisors, LLC to Provide the Services of Neil F. Luria as Chief Restructuring Officer and other Support Personnel* [D.E. No. 13], as approved by the *Final Order Approving Application and Agreement with Navigant Capital Advisors, LLC, and Authorizing Debtor to Employ Neil F. Luria as Chief Restructuring Officer and Other Support Personnel* [D.E. No. 635] (the "Final Order"), Navigant Capital Advisors, LLC has been paid in accordance therewith certain deferred restructuring fees based on recoveries for the Estate and such deferred restructuring fees are subject to review pursuant to § 330 of the Bankruptcy Code.

Certification

1. I have been designated by Navigant Capital Advisors, LLC ("Applicant") as the professional with responsibility in this case for compliance with the current U.S. Department of Justice, Executive Office for United States Trustee's Guidelines for Reviewing the Application for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 for professionals in the Middle District of Florida bankruptcy cases (the "Guidelines").

2. I have read this application for compensation based on a deferred restructuring fee calculated on a small percentage of recoveries identified in the Applicant's employment application [D.E. No. 13].

3. To the best of my knowledge, information, and belief formed after reasonable inquiry, the Application complies with the Guidelines, except as noted specifically noted in this Certification, provided for by the Final Order, or as described in the Application.

4. To the best of my knowledge, information and belief formed after reasonable inquiry, the fees sought fall within the Guidelines given the nature of the fees sought hereunder, except as specifically noted in this Certification, provided for by the Final Order, or and as described in the Application.

5. The deferred restructuring fees sought are billed in accordance with practices customarily employed by Applicant and generally accepted by Applicant's clients.

6. The Plan Trust Advisory Committee, the Debtor, the U.S. Trustee, and their respective counsels, will be mailed, simultaneously with the filing of the Application with the Court, a complete copy of the Application (including all relevant exhibits).

I HEREBY CERTIFY that the foregoing is true and correct.

Dated this 4th Day of October, 2011.

Navigant Capital Advisors, LLC
1603 Orrington Avenue Suite 1600
Evanston, IL 60201

By: 

Mr. Neil F. Luria

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION
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In re:

TAYLOR BEAN & WHITAKER
MORTGAGE CORP.,

Case No. 3:09-bk-07047-JAF
Chapter 11 Case

Debtor.

**FIRST AND FINAL APPLICATION FOR ALLOWANCE AND
PAYMENT OF DEFERRED RESTRUCTURING FEE COMPENSATION OF
NAVIGANT CAPITAL ADVISORS, LLC FOR THE SERVICES OF THE CHIEF
RESTRUCTURING OFFICER AND OTHER SUPPORT PERSONNEL**

NAVIGANT CAPITAL ADVISORS, LLC (“Navigant” or the “Applicant”), retained pursuant to Section 363 of the United States Bankruptcy pursuant to the *Final Order Approving Application and Agreement with Navigant Capital Advisors, LLC, and Authorizing Debtor to Employ Neil F. Luria as Chief Restructuring Officer and Other Support Personnel* [D.E. No. 635], by and through undersigned counsel and pursuant to 11 U.S.C. § 330 and Bankruptcy Rule 2016(a), hereby files its *First and Final Application for Allowance and Payment of Compensation of Navigant Capital Advisors, LLC* (the “Application”) for deferred restructuring fees calculated on a percentage of recoveries during the period of August 24, 2009 (the Petition Date) through July 21, 2011 (the date on which the Court entered its *Order Confirming Third Amended and Restated Joint Plan of Liquidation of the Debtors and the Official Committee of Unsecured Creditors* (the “Third Amended Plan”)) [D.E. No. 3419] (the “Application Period”).

In support thereof, the Applicant states:

RETENTION OF APPLICANT AND REQUESTED AWARD

1. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(A). Venue is proper before

this Court pursuant to 28 U.S.C. § 1408.

2. On August 24, 2009 (the “Petition Date”), the Debtor commenced this case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code, 11 U.S.C §§ 101 – 1532.

3. On August 24, 2009, the Debtor submitted its *Emergency Application for Approval of Agreement with Navigant Capital Advisors, LLC to Provide the Services of Neil F. Luria as Chief Restructuring Officer and Other Support Personnel* [D.E. #13], pursuant to which the Debtor sought to retain Navigant and Neil F. Luria pursuant to Section 363 of the Bankruptcy Code. The Application was granted by final order of this Court on November 12, 2009 [D.E. #635] (the “Final Order”).

4. The Applicant submits this Application, pursuant to Sections 328, 330, 331 and 503(b) of the Bankruptcy Code, Rule 2016 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), the Guidelines, and the Final Order. Pursuant to the engagement arrangement between Navigant and the Debtor, approved by the Final Order, Navigant is entitled to an award and the payment of deferred restructuring fees as more fully set forth therein. By this Application, Navigant requests a first and final award of its deferred restructuring fees for services rendered by Navigant through the Chief Restructuring Officer as well as other Navigant support personnel (the “Navigant Support Staff”) to the Debtor during the Application Period in the amount of **\$1,428,682.94**. This request is in accordance with the terms of the Applicant’s employment Application, the engagement letter attached thereto and the Final Order.

5. This request is the Applicant’s first and final Application to the Court for the deferred restructuring fees. The fees requested are for deferred restructuring fees calculated on a percentage of recoveries in the case in accordance with the Applicant’s employment application, page 5 paragraph 13 [D.E. No 13]. No understanding exists between the Applicant and any

other person for the sharing of compensation sought by the Applicant, except among the partners and associates of the Applicant.

In accordance with the Guidelines, the following exhibits are annexed to this Application:

Exhibit 1: Summary of Recoveries and Deferred Restructuring Fees based on the Recoveries.

6. Prior to August 2009, the Debtor was the largest independent (i.e., non-bank owned) mortgage originator in the United States employing in excess of 2,500 employees, originating in excess of \$30 billion per year of mortgage loans and servicing approximately 512,000 mortgages representing an aggregate unpaid principal balance ("UPB") of approximately \$80 billion. On the Petition Date, the Debtor had ceased operating in the ordinary course, over \$1.5 billion of its funds had been frozen in connection with the receivership of Colonial Bank, the entire legacy senior management team (except the Debtor's in house general counsel) and board had resigned under a cloud of suspicion, and it was unclear whether the Debtor had enough liquidity to last for more than a few days. Furthermore, the various major stakeholders in the Debtor's bankruptcy case asserted that the Debtor had no ownership rights in any assets and that all such assets were either directly or indirectly (through constructive trust) the property of the Debtor's lenders, investors, or other stakeholders. On the Petition Date, the Chief Restructuring Officer and the Navigant Support Staff were tasked with attempting to sort out an unprecedented mess of nothing short of monumental proportions-- all without the aid of historical memory.

7. Beginning on the Petition Date, the Chief Restructuring Officer and the Navigant Support Staff immediately began (i) negotiating with its stakeholders to stabilize its remaining operations to protect the value of the estate and to shield innocent borrowers who had been caught up in the demise of the Debtor's business, and (ii) reviewing the respective ownership

rights of the Debtor and its stakeholders in an effort to identify which assets were the property of the Debtor which could be used to provide liquidity necessary to wind down the Debtor's operations in an orderly fashion and to provide a return to the Debtor's creditors who were facing losses of in excess of \$6 billion. Shortly after the Petition Date, the Debtor was able to enter into an agreed Stipulation with the Federal Deposit Insurance Corporation, as receiver to Colonial Bank ("FDIC-R"), which provided a framework for a consensual reconciliation process to both identify (i) any shortfalls associated with the Debtor's mortgage servicing operations, and (ii) ownership of thousands of mortgage loans. The result of these efforts was an initial reconciliation report that was filed on October 30, 2009 [D.E. No. 555], a second report filed on December 15, 2009 [D.E. No. 776], followed by a Final Reconciliation Report filed on July 1, 2010 [D.E. No. 1644]. The reconciliation process was a key component to both protecting borrowers and identifying assets available for the Debtor's creditors.

8. As a result of the Debtor's reconciliation process and its negotiations its various stakeholders, the Debtor was able to identify the following assets, among others, that were owned by the Debtors:

- 2,239 foreclosed homes;
- 924 whole mortgage loans with a UPB of approximately \$126 million;
- 3,165 AOT related whole loans with a UPB of approximately \$464 million (which loans were identified as owned by the Debtor subject to a lien of the FDIC-R per the settlement agreement entered into with the FDIC-R);
- \$21.9 MM of funds on deposit at Colonial Bank that was the property of the Debtor;
- \$16.5 MM of forced place insurance and mortgage insurance recoveries;
- Various mortgage backed securities;

- First lien rights to the Jumbolair master planned community and the Ocala Speedway;
- An office building in Lawrenceville, Georgia;
- Approximately 40 cars owned by the Debtor; and
- Various other miscellaneous assets identified during the Application Period.

9. Once the various assets described above were identified, the Applicant through Chief Restructuring Officer and the Navigant Support Staff began to focus on maximizing recoveries to the Debtors associated with each of these assets. The recovery process included a combination of bulk sales (including bulk sales of foreclosed homes and whole loans) and ordinary course sales of foreclosed homes, sale of other identified assets, and settlements with various parties that included the transfer and recovery of assets. The result of this process was that the Applicant through the Chief Restructuring Officer and the Navigant Support Staff has recovered a total of \$299,525,146.38 (the "Recovery") for the estate during the Application Period. When combined with additional recoveries expected after the Application Period, the Trust formed under the Debtor's Third Amended Plan will be able to make significant distributions to various secured and unsecured creditors of the estate. Without the efforts of the Applicants, assisted by other estate professionals, there is a very real likelihood that the Debtor's creditors would have received materially lower recoveries, if any. Indeed, the Applicant, through the Chief Restructuring Officer and the Navigant Support Staff, provided leadership, operational oversight and asset sale expertise necessary to handle the various complexities associated with this bankruptcy case. In accordance with the terms of the Applicant's engagement, the deferred restructuring fee for the Recovery is \$1,428,682.94. Exhibit 1 is a breakdown of the Recovery and the calculation of the Applicant's deferred restructuring fee per

the Application.

CONCLUSION; PRAYER FOR RELIEF

WHEREFORE, the Applicant respectfully requests the Court to enter an order (i) awarding it the sum of **\$1,428,682.94** as deferred restructuring compensation as defined and calculated in accordance with the Applicant's engagement documents for the duration of this case; (ii) authorizing and directing the Debtor to pay the Applicant's fees of **\$1,428,682.94**, representing the aggregate fees sought by the Applicant herein; and (iii) granting such other and further relief as the Court deems appropriate.

I HEREBY CERTIFY that a true and correct copy of the foregoing Application was served electronically to CM/ECF subscribers and via U.S. Mail, postage prepaid, to those listed on the attached service list.

Dated: October 4, 2011

Respectfully submitted,

BERGER SINGERMAN, P.A.
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of the Taylor, Bean & Whitaker Plan Trust
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Taylor, Bean & Whitaker Mortgage Corp.

NCA Deferred Restructuring Fee - August 2009 to June 2011

EXHIBIT 1

	Recoveries Aug '09 to Jun '11
REO Recoveries	
REO Bulk Sale (1)	\$67,308,146.79
REO Ordinary Course Recoveries (2)	\$107,905,799.67
REO Property Preservation Recoveries (3)	\$2,363,172.73
Total REO Recoveries	\$177,577,119.19
Non-REO Recoveries	
TBW Whole Loan Proceeds (4)	\$42,450,208.68
Transfer of Colonial Bank Accounts to TBW Estate (5)	\$21,865,625.29
Gross AOT and Overline Loan Sales (6)	\$18,577,653.76
Forced Place Insurance and MI Premium Recoveries (7)	\$16,501,479.52
Sale of MBS Securities Portfolio (8)	\$11,323,781.80
Wells Fargo and Bayview Servicing Release (9)	\$2,300,000.00
Jumbolair Sale Proceeds (10)	\$2,110,000.00
Various Securities Accounts Recoveries (11)	\$1,501,032.25
Sale of Lawrenceville, GA Office Building (12)	\$1,250,000.00
Reverse Mortgage Sale Proceeds (13)	\$1,135,178.30
Fixed Asset Recoveries (14)	\$1,020,009.81
TBW's 1% Ownership of COLB Loan Sale Proceeds (15)	\$875,804.03
US Racing Proceeds (16)	\$675,000.00
Various Miscellaneous Recoveries (17)	\$362,253.75
Total Non-REO Recoveries	\$121,948,027.19
Total Recoveries	\$299,525,146.38

EXHIBIT 1 continued

Deferred Fee Calculation

	<u>Gross Recoveries</u>	<u>Fee %</u>	<u>Fee \$'s</u>	
<u>REO Proceeds</u>	\$177,577,119.19	0.25%	\$443,942.80	[A]
<u>Non-REO Recoveries</u>				
Hurdle 1 (\$0 to \$50 MM)	\$50,000,000.00	1.00%	\$500,000.00	
Hurdle 2 (\$50 MM to \$100 MM)	\$50,000,000.00	0.75%	\$375,000.00	
Hurdle 3 (\$100 MM to \$200 MM)	\$21,948,027.19	0.50%	\$109,740.14	
	\$121,948,027.19		\$984,740.14	[B]
Total Deferred Fees	\$299,525,146.38		\$1,428,682.94	[A+ B]

Footnotes:

- (1) Proceeds related to the §363 auction of 901 REO homes to Selene, which was approved by the Bankruptcy court on December 11, 2009.
- (2) Proceeds related to 929 REO homes sold in the ordinary course.
- (3) Proceeds related to recovery of property taxes, insurance and property preservation advances on REO homes that had been sold prior to the necessary required service release.
- (4) Proceed related to §363 auction of Whole Loan Portfolio, which was approved by the Bankruptcy Court on April 27, 2010. Figure also includes proceeds related to Principal Earned on Performing loans that were not sold in the Auction as well as loans sold in the ordinary course.
- (5) Proceeds related to the recovery of ten (10) bank accounts at Colonial (primarily related to REO Proceeds, TBW Owned Loans and TBW Funding II) in conjunction with the FDIC-R Settlement Agreement.
- (6) Proceeds related to gross sale of 228 AOT and Overline loans from September 2010 to June 2011.
- (7) Proceeds related to the recovery of Forced Place insurance and Mortgage Insurance claims for loans that had been serviced released or for REO sold by TBW.
- (8) Proceeds related to the §363 auction for the MBS Securities portfolio, which was approved by the Bankruptcy court on April 27, 2010.
- (9) Proceeds related to payment from Wells Fargo and Bayview for the servicing release of their loans.
- (10) Proceeds related to the §363 auction for the sale of TBW's rights and interest in Jumbolair, Inc., which was approved by the Bankruptcy court on November 19, 2010.
- (11) Proceeds related to the recovery of investment securities bank accounts from Cantor Fitzgerald, UBS, and Bank of New York.
- (12) Proceeds related to the §363 auction for the sale of office building in Lawrenceville, GA, which was approved by the Bankruptcy court on March 4, 2011.
- (13) Proceeds related to the §363 auction of a Reverse Mortgage Portfolio, which was approved by the Bankruptcy court on June 18, 2010.
- (14) Proceeds related to the sale of various fixed assets such as vehicles, furniture and computer equipment.
- (15) Proceeds related to the Debtor's 1% ownership stake in the sale of COLB loans.
- (16) Proceeds related to the §363 auction for the sale of TBW's rights and interest in US Racing LLC, which was approved by the Bankruptcy court on March 4, 2011.
- (17) Proceeds related to the recovery of various miscellaneous assets.