

**UNITED STATES OF AMERICA**  
**Before the**  
**OFFICE OF THRIFT SUPERVISION**

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In the Matter of )	Order No.: CN 09-25
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<b>TAYLOR BEAN &amp; WHITAKER</b> )	Effective Date: August 21, 2009
<b>MORTGAGE CORP.</b> )	
)	
Ocala, Florida )	
OTS Docket No. H4498 )	
_____ )	

**ORDER TO CEASE AND DESIST**

**WHEREAS**, Taylor Bean & Whitaker Mortgage Corp., Ocala, Florida, OTS Docket No. H4498 (Holding Company), by and through its Board of Directors (Board), has executed a Stipulation and Consent to the Issuance of an Order to Cease and Desist (Stipulation); and

**WHEREAS**, the Holding Company, by executing the Stipulation, has consented and agreed to the issuance of this Order to Cease and Desist (Order) by the Office of Thrift Supervision (OTS) pursuant to 12 U.S.C. § 1818(b); and

**WHEREAS**, pursuant to delegated authority, the OTS Regional Director for the Central Region (Regional Director) is authorized to issue Orders to Cease and Desist where a savings and loan holding company has consented to the issuance of an order.

**NOW, THEREFORE, IT IS ORDERED that:**

**Cease and Desist.**

1. The Holding Company and its directors, officers, employees, and agents shall cease and

desist from any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling or the aiding and abetting in the unsafe or unsound practices that resulted in: (i) the failure to maintain accurate books and records; (ii) the failure to operate the Holding Company independently from the Holding Company's majority-owned federal savings association (Association); (iii) inadequate provisions for liquidity; and (iv) an inadequate level of capital protection for the volume, type, and quality of assets held by the Holding Company.

**Capital Plan.**

2. (a) By no later than October 31, 2009, the Board shall submit a capital plan (Capital Plan) acceptable to the Regional Director, which shall cover the period beginning October 1, 2009 and ending December 31, 2010 and includes, at a minimum, establishment of Holding Company equity capital ratios that are commensurate with its risk profile.
- (b) Once the Regional Director has issued his written non-objection to the Capital Plan, the Holding Company must operate within the parameters of its Capital Plan. Any proposed material deviation or change from the Capital Plan, including deviations or changes proposed by the Holding Company, must be submitted for the prior, written non-objection of the Regional Director. Requests for a material deviation or change must be submitted at least sixty (60) days before a proposed change is implemented.
- (c) On a quarterly basis, beginning with the quarter ending December 31, 2009, the Board shall compare projected operating results contained within the Capital Plan to actual results. The Board's review of the variance report and assessment of the Holding Company's compliance with the Capital Plan shall be fully documented in the appropriate Board meeting minutes.

(d) Within thirty (30) days of the close of each quarter, the Board shall provide the Regional Director with a copy of each variance analysis report.

**GSE Seller-Servicer Responsibilities.**

3. Effective immediately, the Holding Company shall comply with all regulations, rules, and contractual requirements of a Government-sponsored enterprise (GSE), including the applicable Seller-Servicing Guides, in connection with any mortgage loan owned by such GSE and serviced by the Holding Company.

**Loan Sales.**

4. Effective immediately, the Holding Company shall facilitate in a prompt and effective manner the sale by the Association of its mortgage loans held for sale to a third party.

**Books and Records.**

5. Effective immediately, all Holding Company records, including any electronic records, credit files, loan documentation, collateral documentation, promissory notes, escrow records, and accounting information related to any transaction shall be preserved, regardless of the form such information may take.

6. Effective immediately, the Holding Company, by action of its Board, shall immediately adopt and implement procedures to prevent any officer, director, employee of the Holding Company or other persons from destroying, erasing or altering or otherwise falsifying any Holding Company record, including any electronic records, any credit files, loan documentation, collateral documentation, promissory notes, escrow records, and accounting information related to any transaction, regardless of the form such information may take, relating to any transactions or removing any such record from the Holding Company's premises.

7. Effective immediately, all OTS requests for Holding Company records shall be complied

with within one (1) business day of the request. All requests of the OTS shall be submitted in writing.

**Independent Operation of the Holding Company and the Association.**

8. Effective immediately, the Holding Company shall facilitate in a prompt and effective manner the separation of all data processing, administrative, and managerial services between the Holding Company and the Association, with the result that the functions performed by or through the Holding Company and the Association are independent of one another.

9. Effective immediately, all officers, directors and employees of the Holding Company shall be independent from the Association. For purposes of this Paragraph, unless otherwise determined by the Regional Director in writing, the term “Independent” means a person who: (a) is not currently a director, officer, or employee of the Association; (b) is not excluded from such status by the Regional Director for good cause.

**Compliance with Regulatory Directives.**

10. Effective immediately, the Holding Company shall fully cooperate with the Association regarding its compliance with the Order to Cease and Desist entered into with the OTS effective August XX, 2009 and any other supervisory action taken by the OTS.

**Regulatory Reports.**

11. Effective immediately, the Board shall ensure that all reports required pursuant to 12 C.F.R. § 584.1 are properly and timely submitted to the OTS.

**Dividends.**

12. Effective immediately, the Holding Company shall not declare, make, or pay any cash dividends or other capital distributions or purchase, repurchase or redeem or commit to purchase, repurchase, or redeem any Holding Company equity stock without the prior written non-

objection of the Regional Director. The Holding Company shall submit its written request for non-objection to the Regional Director at least forty-five (45) days prior to the anticipated date of the proposed dividend, capital distribution, or stock transaction. The written request for such notice of non-objection shall contain current and pro forma projections regarding the Holding Company's capital, asset quality, and earnings.

**Debt Restrictions.**

13. Effective immediately, the Holding Company shall not, directly or indirectly, incur, issue, renew, roll over, or increase any debt or commit to do so without the prior written non-objection of the Regional Director. The Holding Company shall submit its written request for non-objection to the Regional Director at least forty-five (45) days prior to the anticipated date of the proposed debt transaction. The Holding Company's written requests for Regional Director non-objection to engage in such debt transactions, at a minimum, shall: (a) describe the purpose of the proposed debt; (b) set forth and analyze the terms of the proposed debt and covenants; (c) analyze the Holding Company's current cash flow resources available to satisfy such debt repayment; and (d) set forth the anticipated source(s) of repayment of the proposed debt. For purposes of this Paragraph of the Order, the term "debt" includes, but is not limited to loans, bonds, cumulative preferred stock, hybrid capital instruments such as subordinated debt or trust preferred securities, and guarantees of debt. For purposes of this Paragraph of the Order, the term "debt" does not include liabilities incurred in the ordinary course of business to acquire goods and services and that are normally recorded as accounts payable under generally accepted accounting principles.

**Affiliate, Subsidiary and Institution-Affiliated Party Transactions.**

14. Effective immediately, neither the Holding Company nor any Holding Company institution-affiliated party (IAP), as that term is defined in section 3(u) of the Federal Deposit Insurance Act, 12 U.S.C. § 1813(u), shall engage in any transaction with any subsidiary or affiliate of the Holding Company, including but not limited to safekeeping and custody functions, without the prior written non-objection of the Regional Director. The Holding Company shall provide five (5) days advance written notice to the Regional Director of any proposed affiliate, subsidiary or IAP transaction and shall include a full description of the transaction.

**Severance and Indemnification Payments.**

15. Effective immediately, the Holding Company shall not make any golden parachute payment<sup>1</sup> or any prohibited indemnification payment<sup>2</sup> unless, with respect to each such payment, the Holding Company has complied with the requirements of 12 CFR Part 359.

**Directorate and Management Changes.**

16. Effective immediately, the Holding Company shall comply with the prior notification requirements for changes in directors and Senior Executive Officers<sup>3</sup> set forth in 12 C.F.R. Part 563, Subpart H.

**Employment Contracts and Compensation Arrangements.**

17. Effective immediately, the Holding Company shall not enter into, renew, extend, or revise any contractual arrangement related to compensation or benefits with any director or

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<sup>1</sup> The term “golden parachute payment” is defined at 12 C.F.R. § 359.1(f).

<sup>2</sup> The term “prohibited indemnification payment” is defined at 12 C.F.R. § 359.1(l).

<sup>3</sup> The term “Senior Executive Officer” is defined at 12 C.F.R. § 563.555.

Senior Executive Officer of the Holding Company, unless it first provides the Regional Director with not less than thirty (30) days prior written notice of the proposed transaction. The notice to the Regional Director shall include a copy of the proposed employment contract or compensation arrangement, or a detailed written description of the compensation arrangement to be offered to such director or officer, including all benefits and perquisites. The Board shall ensure that any contract, agreement, or arrangement submitted to the Regional Director fully complies with the requirements of 12 C.F.R. Part 359.

**Effective Date, Incorporation of Stipulation.**

18. This Order is effective on the Effective Date as shown on the first page. The Stipulation is made a part hereof and is incorporated herein by this reference.

**Duration.**

19. This Order shall remain in effect until terminated, modified, or suspended by written notice of such action by the OTS, acting by and through its authorized representatives.

**Time Calculations.**

20. Calculation of time limitations for compliance with the terms of this Order run from the Effective Date and shall be based on calendar days, unless otherwise noted.

21. The Regional Director, or an OTS authorized representative, may extend any of the deadlines set forth in the provisions of this Order upon written request by the Holding Company that includes reasons in support for any such extension. Any OTS extension shall be made in writing.

**Submissions and Notices.**

22. All submissions, including any reports, to the OTS that are required by or contemplated by this Order shall be submitted within the specified timeframes.

23. Except as otherwise provided herein, all submissions, requests, communications, consents, or other documents relating to this Order shall be in writing and sent by first class U.S. mail (or by reputable overnight carrier, electronic facsimile transmission, or hand delivery by messenger) addressed as follows:

(a) **To the OTS:**

Regional Director  
Office of Thrift Supervision  
One South Wacker Drive, Suite 2000  
Chicago, Illinois 60606  
Facsimile: (312) 917-5001

(b) **To the Holding Company:**

Chairman of the Board  
Taylor Bean & Whitaker Mortgage Corp.  
101 N.E. 2<sup>nd</sup> Street  
Ocala, Florida 34470  
Fax: (352) 690-0512

**No Violations Authorized.**

24. Nothing in this Order or the Stipulation shall be construed as allowing the Holding Company, its Board, officers, or employees to violate any law, rule, or regulation.

**IT IS SO ORDERED.**

**OFFICE OF THRIFT SUPERVISION**

By: \_\_\_\_\_ /s/  
Daniel T. McKee  
Regional Director, Central Region

Date: See Effective Date on page 1

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**STIPULATION AND CONSENT TO ISSUANCE OF ORDER TO CEASE AND DESIST**

**WHEREAS**, the Office of Thrift Supervision (OTS), acting by and through its Regional Director for the Central Region (Regional Director), and based upon information derived from the exercise of its regulatory and supervisory responsibilities, has informed Taylor Bean & Whitaker Mortgage Corp., Ocala, Florida, OTS Docket No. H4498 (Holding Company) that the OTS is of the opinion that grounds exist to initiate an administrative proceeding against the Holding Company pursuant to 12 U.S.C. § 1818(b);

**WHEREAS**, the Regional Director, pursuant to delegated authority, is authorized to issue Orders to Cease and Desist where a savings and loan holding company has consented to the issuance of an order; and

**WHEREAS**, the Holding Company desires to cooperate with the OTS to avoid the time and expense of such administrative cease and desist proceeding by entering into this Stipulation and Consent to the Issuance of Order to Cease and Desist (Stipulation) and, without admitting or denying that such grounds exist, but only admitting the statements and conclusions in Paragraphs Taylor Bean & Whitaker Mortgage Corp.  
Stipulation and Consent to Issuance of Order to Cease and Desist

1 - 3 below concerning Jurisdiction, hereby stipulates and agrees to the following terms:

**Jurisdiction.**

1. The Holding Company is a “savings and loan holding company” within the meaning of 12 U.S.C. § 1813(w)(3) and 12 U.S.C. § 1467a. Accordingly, the Holding Company is a “depository institution holding company” as that term is defined in 12 U.S.C. § 1813(w)(1).

2. Pursuant to 12 U.S.C. § 1818(b)(9), the “appropriate Federal banking agency” may initiate a cease and desist proceeding against a savings and loan holding company in the same manner and to the same extent as a savings association for regulatory violations and unsafe or unsound acts or practices.

3. Pursuant to 12 U.S.C. § 1813(q), the Director of OTS is the “appropriate Federal banking agency” with jurisdiction to maintain an administrative enforcement proceeding against a savings and loan holding company. Therefore, the Holding Company is subject to the authority of the OTS to initiate and maintain an administrative cease and desist proceeding against it pursuant to 12 U.S.C. § 1818(b).

**OTS Findings of Fact.**

4. Based on OTS regulatory findings regarding the Holding Company, the OTS finds that the Holding Company engaged in unsafe or unsound practices, including : (i) the failure to maintain accurate books and records; (ii) the failure to operate the Holding Company independently from the Holding Company’s majority-owned federal savings association (Association); (iii) inadequate provisions for liquidity; and (iv) an inadequate level of capital protection for the volume, type, and quality of assets held by the Holding Company.

**Consent.**

5. The Holding Company consents to the issuance by the OTS of the accompanying Order to Cease and Desist (Order). The Holding Company further agrees to comply with the terms of the Order upon the Effective Date of the Order and stipulates that the Order complies with all requirements of law.

**Finality.**

6. The Order is issued by the OTS under 12 U.S.C. § 1818(b). Upon the Effective Date, the Order shall be a final order, effective, and fully enforceable by the OTS under the provisions of 12 U.S.C. § 1818(i).

**Waivers.**

7. The Holding Company waives the following:

- (a) the right to be served with a written notice of the OTS's charges against it as provided by 12 U.S.C. § 1818(b) and 12 C.F.R. Part 509;
- (b) the right to an administrative hearing of the OTS's charges as provided by 12 U.S.C. § 1818(b) and 12 C.F.R. Part 509;
- (c) the right to seek judicial review of the Order, including, without limitation, any such right provided by 12 U.S.C. § 1818(h), or otherwise to challenge the validity of the Order; and
- (d) any and all claims against the OTS, including its employees and agents, and any other governmental entity for the award of fees, costs, or expenses related to this OTS enforcement matter and/or the Order, whether arising under common law, federal statutes, or otherwise.

**OTS Authority Not Affected.**

8. Nothing in this Stipulation or accompanying Order shall inhibit, estop, bar, or otherwise prevent the OTS from taking any other action affecting the Holding Company if, at any time, the OTS deems it appropriate to do so to fulfill the responsibilities placed upon the OTS by law.

**Other Governmental Actions Not Affected.**

9. The Holding Company acknowledges and agrees that its consent to the issuance of the Order is solely for the purpose of resolving the matters addressed herein, consistent with Paragraph 8 above, and does not otherwise release, discharge, compromise, settle, dismiss, resolve, or in any way affect any actions, charges against, or liability of the Holding Company that arise pursuant to this action or otherwise, and that may be or have been brought by any governmental entity other than the OTS.

**Miscellaneous.**

10. The laws of the United States of America shall govern the construction and validity of this Stipulation and of the Order.

11. If any provision of this Stipulation and/or the Order is ruled to be invalid, illegal, or unenforceable by the decision of any Court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby, unless the Regional Director in his or her sole discretion determines otherwise.

12. All references to the OTS in this Stipulation and the Order shall also mean any of the OTS's predecessors, successors, and assigns.

13. The section and paragraph headings in this Stipulation and the Order are for convenience only and shall not affect the interpretation of this Stipulation or the Order.

14. The terms of this Stipulation and of the Order represent the final agreement of the parties

with respect to the subject matters thereof, and constitute the sole agreement of the parties with respect to such subject matters.

15. The Stipulation and Order shall remain in effect until terminated, modified, or suspended in writing by the OTS, acting through its Regional Director or other authorized representative.

**Signature of Directors/Board Resolution.**

16. Each Director signing this Stipulation attests that he or she voted in favor of a Board Resolution authorizing the consent of the Holding Company to the issuance of the Order and the execution of the Stipulation. This Stipulation may be executed in counterparts by the directors after approval of the execution of the Stipulation at a duly called board meeting.

**WHEREFORE**, the Holding Company, by its directors, executes this Stipulation.

Accepted by:

**TAYLOR BEAN & WHITAKER  
MORTGAGE CORP.**  
Ocala, Florida

**OFFICE OF THRIFT SUPERVISION**

By: \_\_\_\_\_ /s/  
Lee B. Farkas, Chairman

By: \_\_\_\_\_ /s/  
Daniel T. McKee  
Regional Director, Central Region

\_\_\_\_\_/s/  
Paul R. Allen, Director

Date: See Effective Date on page 1

\_\_\_\_\_/s/  
Sherry Dickinson, Director

\_\_\_\_\_/s/  
Ray Bowman, Director

\_\_\_\_\_/s/  
Stuart Scott, Director