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2 STATE OF OREGON  
3 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
4 DIVISION OF FINANCE AND CORPORATE SECURITIES

5 BEFORE THE DIRECTOR OF THE DEPARTMENT OF  
6 CONSUMER AND BUSINESS SERVICES

7 In the Matter of:

8 The Oregon Mortgage Broker License of  
9 **TAYLOR, BEAN & WHITAKER**  
10 **MORTGAGE CORP.**, a Florida  
11 corporation,

12 Licensee.

**M-09-0055-1**

**FINAL ORDER OF SUSPENSION OF  
MORTGAGE BROKER LICENSE  
AND ORDER TO CEASE AND  
DESIST ENTERED BY DEFAULT**

13 WHEREAS on September 9, 2009, the Director of the Department of Consumer and  
14 Business Services for the State of Oregon ("the Director"), acting by the authority of the  
15 Oregon Mortgage Lender Law, Oregon Revised Statutes ("ORS") 59.840 to 59.980 and  
16 concluding that there was a serious threat to public safety and that the public was likely to be  
17 substantially harmed thereby, issued to Taylor, Bean & Whitaker Mortgage Corp. (the  
18 "Licensee") an ORDER OF EMERGENCY SUSPENSION OF MORTGAGE BROKER  
19 LICENSE AND ORDER TO CEASE AND DESIST ("Emergency Suspension Order"); and

20 WHEREAS on or about September 11, 2009, the Licensee's Oregon registered agent  
21 was duly served with a true copy of the Emergency Suspension Order by United States  
22 Certified Mail, postage prepaid, addressed to CT Corporation Systems, 388 State Street Suite  
23 420, Salem, Oregon 97301-3581; and

24 WHEREAS on or about September 14, 2009, the Licensee was duly served with a true  
25 copy of the Emergency Suspension Order by United States Certified Mail, postage prepaid,  
26 addressed to Jeff Cavender, General Counsel; Taylor Bean & Whitaker Mortgage Corp., 315  
27 NE 14<sup>th</sup> Street, Ocala, Florida 34470-6642; and

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1 WHEREAS the Licensee has not made a written request for a contested case hearing  
2 in this matter and time to do so has expired.

3 NOW THEREFORE, after consideration of the Division's investigative file and  
4 related documents, including all documents any materials submitted by the Respondent, the  
5 Director hereby issues the following Findings of Fact, Conclusions of Law, and Final Order.

6 **FINDINGS OF FACT**

7 1. Taylor, Bean & Whitaker Mortgage Corp. is a Florida corporation with  
8 principal business offices located at 315 NE 14th Street, Ocala, Florida 34470. The Licensee  
9 is licensed by the Director as an Oregon mortgage broker (ML-2264) having been first  
10 licensed on November 8, 2000. The Licensee has also registered twelve branch offices with  
11 the Director, none of which are within Oregon.

12 2. On August 4, 2009, the Department of Housing and Urban Development  
13 ("HUD") issued a news release providing, *inter alia*:

14  
15 "The Federal Housing Administration (FHA) today suspended [Licensee] \* \* \* thereby  
16 preventing [Licensee] from originating and underwriting new FHA-insured mortgages.  
17 The Government National Mortgage Association (Ginnie Mae) is also defaulting and  
18 terminating [Licensee] as an issuer in its Mortgage-Backed Securities (MBS) program  
19 and is ending [Licensee's] ability to continue to service Ginnie Mae securities. This  
20 means that, effective immediately, [Licensee] will not be able to issue Ginnie Mae  
21 securities, and Ginnie Mae will take control of [Licensee's] nearly \$25 billion Ginnie  
22 Mae portfolio.

23  
24 "FHA and Ginnie Mae are imposing these actions because [Licensee] failed to submit a  
25 required annual financial report and misrepresented that there were no unresolved issues  
26 with its independent auditor even though the auditor ceased its financial examination  
after discovering certain irregular transactions that raised concerns of fraud. FHA's  
suspension is also based on [Licensee's] failure to disclose, and its false certifications  
concealing, that it was the subject of two examinations into its business practices in the  
past year."

27 On August 5, 2009, the Licensee issued a press release stating:

28  
29 "[LICENSEE] MUST CEASE ALL ORIGATION OPERATIONS EFFECTIVE  
30 IMMEDIATELY [Licensee] received notification on August 4, 2009 from the U.S.  
31 Department of Housing and Urban Development, Freddie Mac and Ginnie Mae (the  
32 'Agencies') that it was being terminated and/or suspended as an approved seller and/or  
33 servicer for each of these respective federal agencies....As a result of these actions,  
34 [Licensee] must cease all origination operations effective immediately. Regrettably,



1 [Licensee] will not be able to close or fund any mortgage loans currently pending in its pipeline.”

2 3. On August 6, 2009, other State regulators participated in a telephone  
3 conference call with Jeff Cavender, General Counsel of the Licensee, to discuss the current  
4 financial condition of the Licensee. Mr. Cavender stated that as of August 5, 2009, the  
5 Licensee had ceased all origination, processing, and underwriting operations, the Licensee  
6 had terminated all non-essential employees, and the Licensee would not be funding any more  
7 loans including loans that had been closed but not funded. As of August 27, 2009, the  
8 Licensee provided States with a report listing 174 loans in process with approximately \$35  
9 million in principal that either concerned real property located in the State of Oregon or listed  
10 borrowers with Oregon addresses. These loans are in all stages of the lending process, from  
11 applications received to commitments issued.

12 4. On August 18 2009, two Oregon consumers, a husband and wife, with a loan  
13 currently serviced by the Licensee, were attempting to obtain an FHA streamline refinance  
14 with the Licensee. The consumers were told that their current loan was not an FHA loan,  
15 even though the consumers paid the Licensee the FHA upfront mortgage insurance and had  
16 been paying the Licensee the monthly FHA mortgage insurance premium.

17 5. On or about August 14, 2009, the Licensee sent another Oregon consumer a  
18 refund check for \$404 for an overpayment to his escrow account with the Licensee. On  
19 August 19, 2009, the consumer deposited the refund check to his saving account. The amount  
20 of the check was immediately credited to the consumer’s account. Three or four days later,  
21 the consumer’s bank notified the consumer that the Licensee did not have sufficient funds on  
22 deposit to cover the amount of the refund check. The consumer attempted to contact the  
23 Licensee by email and by telephone to obtain payment with no success.

24 6. On August 24, 2009, the Licensee filed a Voluntary Petition for Chapter 11  
25 bankruptcy protection in the United States Bankruptcy Court for the Middle District of  
26 Florida, Case No. 09-07047 JAF.





1 the licensee cannot continue in business with safety to its customers; or the licensee has  
2 engaged in dishonest, fraudulent or illegal practices or conduct in any business or profession  
3 or unfair or unethical practices or conduct in connection with the mortgage business, the  
4 Director may suspend, condition or revoke the mortgage broker license of the person.

5 **ORDER**

6 13. NOW THEREFORE, based on the above Findings of Fact and Conclusions of  
7 Law, the Director ORDERS that:

- 8 a. The Licensee's authority to conduct the business of a residential mortgage  
9 broker in Oregon, including its authorization to operate branch offices, is  
10 suspended effective September 10, 2009.
- 11 b. Effective the date of this Order, the Licensee must cease and desist  
12 accepting—from consumers, mortgage brokers, or consumer lenders—any  
13 applications for loans from Oregon consumers or loans that are, or are intended  
14 to be, secured by real property located in Oregon.
- 15 c. Effective the date of this Order, the Licensee must cease and desist from  
16 advertising its residential mortgage loan business in Oregon or to Oregon  
17 consumers, including but not limited to, cancellation and removal of all  
18 existing advertisements and shall require cancelation of all ad buys for future  
19 advertisements that have not yet run.
- 20 d. Effective the date of this Order, the Licensee must notify, in writing, all  
21 Oregon consumers and each consumer's broker, of the status of all pending  
22 loan applications and pending loans and the likelihood of the loan being  
23 funded. The Licensee must make all reasonable efforts to assist Oregon  
24 consumers by placing all pending loan applications and loans with other  
25 lenders.

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- 1 e. The Licensee must notify any Oregon consumers of any change in loan  
2 payments, or if any of the consumer's responsibilities in connection with the  
3 loan have changed, either in amount due or whether payable to another party,  
4 in compliance with the Real Estate Settlement Procedures Act of 1974, 12  
5 USC Sections 2601-2617.
- 6 f. The Licensee must provide the Director with the contact information for each  
7 individual consumer and his or her mortgage broker, including names,  
8 addresses, and telephone numbers (if available) for all loan applications or  
9 loans pending with the Licensee by October 15, 2009. The Licensee must  
10 provide the Director with a weekly update of the status of all pending loan  
11 applications and loans for Oregon consumers until all such pending loan  
12 applications and loans have been placed with other lenders or withdrawn by  
13 the applicants. This contact information and weekly update shall be sent to  
14 Kirsten L. Anderson, Program Manager, Mortgage Lending Section, at  
15 [kirsten.l.anderson@state.or.us](mailto:kirsten.l.anderson@state.or.us).
- 16 g. Effective the date of this Order, the Licensee must place any fees previously  
17 collected from Oregon consumers relative to any pending loan applications or  
18 loans in a separate escrow account maintained at a federally insured depository  
19 institution. The Licensee must transfer to any new lender all fees paid by  
20 Oregon consumers whose loans are placed with other lenders. The Licensee  
21 must return to those Oregon consumers any fees paid for loans not placed with  
22 other lenders.
- 23 h. Effective the date of this Order, the Licensee must release any liens filed on  
24 any Oregon real property or filed on property owned by any Oregon consumer  
25 as a result of any residential mortgage loans that the Licensee originated but  
26 does not fund.

Division of Finance and Corporate Securities  
Labor and Industries Building  
350 Winter Street NE, Suite 410  
Salem, OR 97301-3881  
Telephone: (503) 378-4387



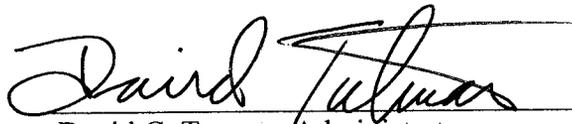
1 i. The Licensee must maintain all required records at approved locations and  
2 must allow the Director free access to examine these records as required by  
3 Oregon Mortgage Lender Law.

4 14. Nothing in the Order shall prevent the Licensee from selling or assigning  
5 residential mortgage loans to another entity, servicing closed loans or engaging in other  
6 lawful activity not otherwise prohibited by this Order.

7 IT IS SO ORDERED.

8 Dated this 24<sup>th</sup> day of December, 2009 in Salem, Oregon NUNC PRO TUNC  
9 September 10, 2009.

10 CORY STREISINGER, Director  
11 Department of Consumer and Business Services

12   
13 David C. Tatman, Administrator  
14 Division of Finance and Corporate Securities

15 **RIGHT TO JUDICIAL REVIEW**

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17 You have the right to appeal this Order to the Oregon Court of Appeals pursuant to  
18 ORS 183.482. To appeal you must file a petition for judicial review with the Court of  
19 Appeals within 60 days from the day this Order was served on you. If this Order was  
20 personally delivered to you, the date of service is the day you received the Order. If this  
21 Order was mailed to you, the date of service is the day it was mailed, not the day you  
22 received it. If you do not file a petition for judicial review within the 60-day time period,  
23 you will lose your right to appeal.

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