COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
ADMINISTRATIVE AGENCY ACTION NO. 2009-AH-53

DEPARTMENT OF FINANCIAL INSTITUTIONS COMPLAINANT

vs.

SUPPLEMENTAL ORDER TO CEASE AND DESIST

TAYLOR BEAN & WHITAKER MORTGAGE CORPORATION RESPONDENT

Comes now the Commonwealth of Kentucky, by and through the Commissioner of the Department of Financial Institutions ("DFI"), and hereby enters this **Supplemental Order** directing Taylor Bean & Whitaker Mortgage Corporation ("TBW") to **CEASE AND DESIST** from engaging in all servicing activities in Kentucky by September 30, 2009.

Pursuant to Kentucky Revised Statutes (KRS) Chapter 286.8-090, the Commissioner **hereby ORDERS** as follows:

1. **Not later than September 30, 2009**, TBW shall transfer all servicing of any Kentucky consumer mortgage loans which TBW currently services to another qualified mortgage servicer. This transfer should include transferring any and all related funds or documents to the new mortgage servicer in compliance with all applicable state or federal laws.
2. TBW shall provide a daily report to DFI of the status of all Kentucky consumer mortgage loans that it continues to service until said loans are

properly transferred as required by this Supplemental Order. This daily status report shall include, at a minimum, the following information:

a. the name, address and telephone number of the consumer;

b. the state in which the consumer resides;

c. the identity of the account/loan owner;

d. loan account number;

e. loan account balance;

f. escrow account number

g. escrow balance;

h. the bank or other institution in which the funds are located; and

i. demonstration of compliance with any servicing transfer agreements applicable to the loan, including, but not limited to:

   i. the status of the transfer of the electronic and paper mortgage loan files;

   ii. the status of the transfer of any funds; and

   iii. any other provision relating to the safe transfer of the servicing of the mortgage loans.

This daily report shall be provided to Kathy Stewart, Director of Financial Institutions at kathy.stewart@ky.gov.

3. TBW shall provide to DFI copies of all servicing transfer agreements entered into between TBW and the new mortgage loan servicer for all Kentucky consumer mortgage loans within **one (1) day** of execution.

4. TBW shall include in its new servicing agreements with any new mortgage loan servicer, with respect to any loans currently in its servicing portfolio that are not "federally-related mortgage loans" as defined by 12 U.S.C. §2602, a provision that the new mortgage loan servicer not impose late fees and not report late fees to any credit reporting bureau for sixty (60) days commencing on the date the first payment is due at the new mortgage loan servicer's address. Such provision and sixty (60) day period shall be conditioned upon the borrower demonstrating to the new mortgage loan servicer than an attempt to make the required payment has been made.
5. TBW shall make maximum efforts to facilitate the safe, sound and orderly transfer of all Kentucky consumer loans to the new mortgage loan servicer in and ensure compliance with all applicable state and federal laws.
6. TBW shall work with any new mortgage loan servicers to provide notices to all Kentucky consumers advising them of the transfer within **ten (10) days** of the transfer. The notices shall provide, at a minimum, the following information:
    a. The name and address of the new servicer;
    b. The date that TBW will stop accepting payments;
    c. The date the new servicer will begin accepting payments;
    d. Toll-free telephone numbers for both TBW and the new servicer that the consumer may use to obtain more information about the transfer; and

e. A statement that the transfer will not affect any terms or conditions of the consumer's mortgage loan contract, except those directly related to the servicing of the mortgage loan.

7. TBW shall immediately implement revised internal controls for its servicing department, which shall include at a minimum, the following:

   a. Supervisory and compliance procedures reasonably designed to prevent and detect future violations of applicable state and federal laws; and

   b. Retain an experienced independent contractor to oversee the day-to-day operations of the servicing department.

8. TBW shall immediately place any and all payments collected from Kentucky consumers in an escrow account to be controlled by an independent third party and maintained at a federally-insured bank. Such escrow account shall be separate and apart from any TBW operating account(s). **Not later than five (5) days** after entry of this Order, TBW shall provide proof of that such funds have been appropriately transferred to Kathy Stewart, Director of Financial Institutions at kathy.stewart@ky.gov. Each Monday, by 9:00 a.m., EST, TBW shall provide updated reports regarding such payments and placement in an escrow account in accordance with this Supplemental Order.

9. Nothing in this Supplemental Order shall prevent TBW from selling or assigning the servicing of Kentucky consumer mortgage loans.

10. Nothing in this Order shall prevent the DFI or any other authority from taking any further administrative or enforcement action under the Act or any other applicable law; and

11. This **ORDER** shall become effective upon receipt.

IT IS SO ORDERED on this the 8th day of September, 2009

Charles A. Vice
Commissioner
Department of Financial Institutions

NOTICE OF APPEAL RIGHTS

1. You are hereby notified that you have a right to request a hearing in this matter, in writing, within **twenty (20) days** of the entry date of this Order. If requested, an administrative hearing shall be held pursuant to the provisions of KRS Chapter 13B and 808 KAR 12:030. If a request for a hearing is not filed with DFI within twenty (20) days after the certified mailing of this Order, it shall be made final and shall remain in effect until withdrawn by the Commissioner or terminated by a court order.

2. You are hereby advised that you have a right to legal counsel at all stages of these proceedings, including but not limited to preliminary matters, and including a hearing, if one is requested.

3. You are advised that all parties to these proceedings have a right to examine, at least five (5) days prior to any hearing in this matter, a list of witnesses the parties, including DFI, expect to call at the hearing, any evidence to be used at the hearing, and any exculpatory information in the possession of DFI. The time limits established herein shall accrue from the actual date of the hearing once that date is established. However, no hearing will be set if the parties fail to timely request a hearing.

4. You are advised that any party who fails to attend or participate as required at any stage of the administrative hearing process may be held in default and the proceedings may be determined against the defaulting party.

Certificate of Service

I hereby certify that a copy of the foregoing **Supplemental Order to Cease and Desist** was sent by certified mail, return receipt requested, on this the 8th day of September, 2009, to the following:

Jeffrey W. Cavender
General Counsel
Taylor Bean & Whitaker Mortgage Corporation
5150 Stilesboro Road
Building 500, Suite 500
Kennesaw, GA 30152

Christine Lewis
Legal Counsel
Department of Financial Institutions
1025 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601
(502) 573-3390 Ext. 240
(502) 573-2183 (facsimile)