

**STATE OF ILLINOIS  
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION  
DIVISION OF BANKING**

IN THE MATTER OF: )  
)  
**TAYLOR, BEAN & WHITAKER MTGE. )**  
**CORP. )**  
License No. MB.0005493 )  
315 NE 14<sup>th</sup> Street )  
Ocala, FL 34470 )

No. 2009-MBR-CD3-c

**SETTLEMENT AGREEMENT**

The Illinois Department of Financial and Professional Regulation, Division of Banking (“Department”), Taylor, Bean & Whitaker Mortgage Corp. (“TBW”) and the Taylor, Bean & Whitaker Plan Trust (“Trust”) formed pursuant to TBW’s confirmed plan of liquidation hereby enter into this Settlement Agreement (“Settlement Agreement”) for the purpose of settling the various disputes as set forth hereafter.

**RECITALS**

WHEREAS, TBW is a residential mortgage licensee located at 4901 Vineland Road, Suite 120, Orlando, Florida 32811 and held Illinois license No. MB.0005493 (“License”);

WHEREAS, in 2009 the banking departments of 14 states including the Department participated in an examination of TBW’s lending practices (“Multi-State Examination”);

WHEREAS, pursuant to the Multi-State Examination, a report was issued detailing alleged deficiencies in TBW’s lending practices (“Multi-State Report of Examination”);

WHEREAS, in settlement of the issues raised in the Multi-State Report of Examination, TBW and the 14 states including the Department entered into a settlement agreement dated June 22, 2009 (“MSRE Settlement Agreement”);

WHEREAS, pursuant to the MSRE Settlement Agreement, TBW agreed to certain modifications of its lending practices and also agreed to remit to the 14 states the sum of \$4.5 million and, at the request of the fourteen states, the sum of \$4.5 million to the Nationwide Mortgage Licensing System (“NMLS”);

WHEREAS, the Department received as its share of the remittance from the MSRE Settlement Agreement the sum of \$321,428.57 by check dated July 6, 2009;

WHEREAS, TBW also made the required remittances to NMLS and the other states;

WHEREAS, on August 6, 2009, the Department issued to TBW an Order to Cease and Desist Origination Activities, and on August 21, 2009, the Department issued to TBW an Amended Order to Cease and Desist Servicing Activities (“Cease and Desist Orders”);

WHEREAS, on August 24, 2009, TBW filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) commencing a Chapter 11 bankruptcy proceeding docketed as Case No. 09-07047 (the “Bankruptcy Case”) before the United States Bankruptcy Court for the Middle District of Florida, Jacksonville Division (the “Bankruptcy Court”);

WHEREAS, on September 3, 2009 the Bankruptcy Court entered an order authorizing TBW to employ Neil Luria (“Luria”) on an interim basis as its chief restructuring officer (“CRO”);

WHEREAS, on November 12, 2009, the Bankruptcy Court entered a final order authorizing TBW to employ Luria as its CRO;

WHEREAS, on July 21, 2011, the Bankruptcy Court entered an order confirming a plan of liquidation for TBW (“Plan”);

WHEREAS, pursuant to the terms of the Plan, Luria was named as the Plan Trustee for the Trust with authority to *inter alia* manage the post-confirmation affairs of TBW, liquidate the assets of the TBW estate and make distributions in accordance with the Plan;

WHEREAS, in August 2011, Luria in his capacity as Plan Trustee for the Trust filed adversary complaints against the 14 states including the Department as well as the NMLS to recover as preferences under 11 U.S.C. §§547 and 550 the payments made pursuant to the MSRE Settlement Agreement;

WHEREAS, the adversary complaint filed against the Department - *Neil F. Luria, Plan Trustee v. Illinois Department of Financial and Professional Regulation*, Case No. 11 AP 704 (“*Luria v. Illinois*”) - remains pending;

WHEREAS, TBW requested administrative review of the Cease and Desist Orders which proceeding is currently pending before the Department as *Taylor, Bean & Whitaker Mortgage Corp. v. Department of Financial and Professional Regulation*, Docket No.: E2009-301 (“TBW Illinois Administrative Proceeding”);

WHEREAS, at the present time TBW is no longer originating or servicing loans in the State of Illinois;

WHEREAS, TBW has provided the Department with a listing of the portfolio of Illinois (“Illinois Portfolio”) loans owned by TBW that it wishes to liquidate for the benefit of its bankruptcy estate;

WHEREAS, the Department enters into the Settlement Agreement for the purpose of imposing measures that are fair and equitable in the circumstances and that are consistent with the best interests of the people of the State of Illinois;

WHEREAS, TBW and the Trust acknowledge that they have been represented by legal

counsel in negotiating this Settlement Agreement, and that, without admitting liability, they willingly enter into this Settlement Agreement, upon advice of counsel, and after full review, evaluation, and consideration and with full knowledge of their rights under the Residential Mortgage License Act of 1987 (205 ILCS 635/1-1 *et seq.*) Act and the Illinois Administrative Procedures Act; and

WHEREAS, in an attempt to settle their disputes and avoid the costs and uncertainties of litigation, the Department, TBW and the Trust engaged in negotiations and have agreed to settle their disputes in the manner set forth hereafter;

WHEREAS, TBW and the Trust have represented to the Department that under the terms of the Plan, they do not require approval of the Bankruptcy Court before entering into this Settlement Agreement;

### **AGREEMENT**

Now therefore, in consideration of the mutual promises set forth herein, the sufficiency of which is hereby acknowledged, the Department, TBW and the Trust (collectively, the “Parties”) agree as follows:

1. TBW and the Trust agree to the permanent revocation of TBW’s License including all branch licenses. Notwithstanding the revocation of its License, TBW shall be permitted to monitor and sell any and all loans remaining in its Illinois Portfolio and/or TBW-owned real estate (“REO Assets”) and proceed with foreclosure actions as set forth in paragraph 2 below.
  
2. The Department agrees that the Cease and Desist Orders will be vacated in their

entirety, including but not limited to any and all language prohibiting TBW and any servicers or purchasers of loans currently owned by TBW, previously owned by TBW, originated by TBW, or previously serviced by TBW, from commencing or proceeding with foreclosure proceedings or other loss mitigation strategies.

3. TBW agrees to a permanent bar on obtaining any license from the Department and will not seek licensure from the Department at any point in the future.

4. TBW agrees to withdraw the TBW Illinois Administrative Proceeding, with prejudice. Upon withdrawal of the TBW Illinois Administrative Proceeding, the Department agrees that it will not seek to impose fines, restitution or costs with respect to the Cease and Desist Orders or the TBW Illinois Administrative Proceeding.

5. TBW and the Trust agree to dismiss the preference action *Luria v. Illinois* with prejudice and with all Parties bearing their own costs and agree to release any other avoidance actions that they may have against the Department or any other agency or department of the State of Illinois under §§544-551 of the Bankruptcy Code.

6. TBW and the Trust agree to reduce the amount that they are claiming against NMLS in the adversary proceeding captioned *Neil Luria, Plan Trustee v. Nationwide Mortgage Licensing System*, Case No. 11 AP 598, pending before the Bankruptcy Court by \$321,428.57; such amount representing 1/14 of the \$4.5 million remitted by TBW to NMLS at the request of the 14 states.

7. TBW and the Trust waive any right to file any petition for administrative hearing or other appeal of this Settlement Agreement.

8. In order to protect Illinois consumers, TBW agrees that during the period that it holds any of the loans in the Illinois Portfolio, it will cause its servicers to promptly respond to all consumer inquiries directed to the Department. The Department shall forward any consumer inquiries to:

Taylor, Bean & Whitaker Mortgage Corp.  
c/o Consumer Complaints  
4901 Vineland Road, Suite 120  
Orlando, Florida 32811

Taylor, Bean & Whitaker Mortgage Corp.  
c/o Chief Restructuring Officer  
4901 Vineland Road, Suite 120  
Orlando, Florida 32811

TBW shall provide the Department a report on each of the referred consumer inquiries detailing the outcome of the consumer inquiry.

9. TBW and the Trust have been actively attempting to donate certain REO Assets in Illinois. In the course of transferring or otherwise disposing of its remaining REO Assets in Illinois, TBW and the Trust will endeavor to determine whether it is appropriate to donate any REO Assets in Illinois to not-for-profit agencies providing housing to low-income residents of Illinois, taking into account their duty to maximize recoveries for the benefit of the various creditor constituencies in the Bankruptcy Case.

10. Upon execution, the Department shall post this Settlement Agreement on its website.

12. This Settlement Agreement is intended by the Parties as a final expression of their agreement and is intended as a complete statement of the terms and conditions of their agreement and supersedes all prior understandings and agreements, whether written or oral, among the Parties relating to the terms and conditions provided for in this Agreement.

13. Each of the signatories below represents and warrants that he or she has the power and authority to bind the Party for whom he or she is signing this Agreement and that no further

approvals or consents are required to make this Agreement binding on the Party or Parties on whose behalf such person executes this Agreement.

14. This Agreement may only be modified by a writing executed by each of the Parties.

15. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns, heirs, executors and personal representatives.

IN WITNESS WHEREOF, the Parties, intending to be legally bound, have duly executed this Agreement as of the date first set forth above.

TAYLOR, BEAN & WHITAKER MORTGAGE CORP.

\_\_\_\_\_ Date: \_\_\_\_\_

TAYLOR, BEAN & WHITAKER PLAN TRUST

\_\_\_\_\_ Date: \_\_\_\_\_

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION  
BRENT E. ADAMS, SECRETARY  
DIVISION OF BANKING

\_\_\_\_\_ Date: **FEBRUARY 22, 2012**

MANUEL FLORES, DIRECTOR