

1 State of New Hampshire Banking Department

2 In re the Matter of: )Case No.: 09-068  
3 State of New Hampshire Banking )  
4 Department, )  
5 Petitioner, )  
6 and )Order to Show Cause  
7 Taylor, Bean & Whitaker Mortgage )  
8 Corp, Lee Bentley Farkas, Raymond )And  
9 Edward Bowman, Paul Richard Allen, )  
10 Digvijay Laxmansinh Gaekwad, Sherry )Cease and Desist Order  
11 Dianne Dickinson and Stuart Lockard )  
12 Scott, )  
13 Respondents )

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14  
15 NOTICE OF ORDER

16 This Order commences an adjudicative proceeding under the  
17 provisions of RSA 397-A and RSA 541-A and RSA 383.

18 LEGAL AUTHORITY AND JURISDICTION

19 Pursuant to RSA 397-A:17, the Banking Department of the State of  
20 New Hampshire (the "Department") has the authority to issue an order  
21 to show cause why license revocation and penalties for violations of  
22 New Hampshire Banking laws should not be imposed.

23 Pursuant to RSA 397-A:18, the Department has the authority to  
24 issue a complaint setting forth charges whenever the Department is of  
25 the opinion that the licensee or person over whom the Department has

1 jurisdiction is violating or has violated any provision of RSA  
2 Chapter 397-A, or any rule or order thereunder.

3 Pursuant to RSA 397-A:18,II, the Department has the authority to  
4 issue and cause to be served an order requiring any person engaged in  
5 any act or practice constituting a violation of RSA Chapter 397-A or  
6 any rule or order thereunder, to cease and desist from violations of  
7 RSA Chapter 397-A.

8 Pursuant to RSA 397-A:20, the Commissioner may issue, amend, or  
9 rescind such orders as are reasonably necessary to comply with the  
10 provisions of the Chapter.

11 Pursuant to RSA 397-A:21, the Commissioner has the authority to  
12 suspend, revoke or deny any license and to impose administrative  
13 penalties of up to \$2,500.00 for each violation of New Hampshire  
14 banking law and rules.

15 Pursuant to RSA 383:10-d, the Commissioner shall investigate  
16 conduct that is or may be an unfair or deceptive act or practice  
17 under RSA 358-A and exempt under RSA 358-A:3,I or that may violate  
18 any of the provisions of Titles XXXV and XXXVI and administrative  
19 rules adopted thereunder. The Commissioner may hold hearings relative  
20 to such conduct and may order restitution for a person or persons  
21 adversely affected by such conduct. The Commissioner may utilize all  
22 remedies available under the Act.





1 provide proof that the fees have been placed in an  
2 escrow account maintained at a federally insured bank  
3 to Ms. Mary Jurta, Director of Consumer Credit at  
4 XX.

5 4. Taylor Bean shall provide within five business days of  
6 this Order an accurate pipeline report for the  
7 following categories of loans for New Hampshire  
8 consumers and/or for loans on New Hampshire real  
9 estate:

- 10 a. loans that have closed, but have not yet  
11 funded;
- 12 b. loans that have been approved but that  
13 have not closed;
- 14 c. applications that have been received, but  
15 no decision has been made on approving the  
16 applications; and
- 17 d. applications that are in the initial  
18 stages of review and document gathering.

19 The pipeline report shall include the following information:

- 20 i. the name, address and telephone number of  
21 the applicant consumer;
- 22 ii. the address of the subject property;
- 23 iii. the loan number;
- 24 iv. the amount of all prepaid loan fees  
25 submitted by the applicant consumer;

- 1 v. the amount of each loan;
- 2 vi. the status of the loan;
- 3 vii. the purpose of the loan (i.e. purchase or
- 4 refinance);
- 5 viii. contact information for the broker who
- 6 referred the loan to Taylor Bean (if
- 7 applicable);
- 8 ix. status of what is being done with the loan
- 9 (funded by Taylor Bean, referred to
- 10 another broker/lender, returned to broker,
- 11 withdrawn by the applicant, etc.); and
- 12 x. contact information for the broker/lender
- 13 where the loan is placed, should Taylor
- 14 Bean not fund the loan itself.

15 This Pipeline Report shall be updated every Monday at 9:00 A.M.  
16 Eastern Standard Time and the updates shall be sent to Mary Jurta at  
17 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX. Taylor Bean shall continue to update  
18 the Pipeline Report until all of the loans have been funded, placed  
19 with another broker or lender, or withdrawn by the applicant. Taylor  
20 Bean shall ensure that the consumer is in the same position with the  
21 new lender or broker as the consumer would have been if the loan had  
22 been funded with Taylor Bean.

23 5. Upon the date of this Order, Taylor Bean shall release  
24 any liens filed on any New Hampshire real property or  
25 filed on property owned by New Hampshire consumers as a

1 result of a residential mortgage loan closing with  
2 Taylor Bean but not being funded. In the event that  
3 the loan is subsequently funded, Taylor Bean may file a  
4 lien against the property at that time.

5 6. Upon the date of this Order, Taylor Bean shall maintain  
6 all required records at its Corporate Office, and allow  
7 the Department free access to examine the records as  
8 required under New Hampshire law.

9 7. Upon the date of this Order, Taylor Bean shall provide  
10 contact information for an employee of Taylor Bean that  
11 Department employees may contact with questions as well  
12 as contact information for an employee of Taylor Bean  
13 that consumers and mortgage brokers may contact with  
14 questions. This information shall be provided to Mary  
15 Jurta at XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.

16 8. Nothing in this Order shall prevent Taylor Bean from  
17 selling or assigning residential mortgage loans to  
18 another entity, servicing closed mortgage loans or  
19 engaging in other activity not prohibited by New  
20 Hampshire law or this Order.

21 9. Within five (5) days of the date of this Order, Taylor  
22 Bean shall submit to the Department Taylor Bean's  
23 balance sheet and year-to-date income statement,  
24 prepared as of the date of submission, and attested by  
25 a duly authorized officer of the Corporation. The

1 balance sheet shall indicate Taylor Bean's cash  
2 position at each of its depository banks as well as  
3 Taylor Bean's bank account information. The balance  
4 sheet and year-to-date statement shall be sent to Mary  
5 Jurta at XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX.

6 10. Nothing in this Order shall prevent the Department from  
7 taking any further administrative action under New  
8 Hampshire law.

9 11. Taylor, Bean & Whitaker Mortgage Corp. ("Respondent  
10 Taylor Bean") shall show cause why penalties in the  
11 amount of \$2,500.00 for each violation should not be  
12 imposed against it;

13 12. Respondent Lee Bentley Farkas ("Respondent Farkas")  
14 shall show cause why penalties in the amount of  
15 \$2,500.00 for each violation should not be imposed  
16 against him;

17 13. Respondent Raymond Edward Bowman ("Respondent Bowman")  
18 shall show cause why penalties in the amount of  
19 \$2,500.00 for each violation should not be imposed  
20 against him;

21 14. Respondent Paul Richard Allen ("Respondent Allen")  
22 shall show cause why penalties in the amount of  
23 \$2,500.00 for each violation should not be imposed  
24 against him;

25 15. Respondent Digvijay Laxmansinh Gaekwad ("Respondent





1 State of New Hampshire Banking Department

2 In re the Matter of: )Case No.: 09-068

3 State of New Hampshire Banking )

4 Department, )

5 Petitioner, )

6 and )Staff Petition

7 Taylor Bean & Whitaker Mortgage )

8 Corp, Lee Bentley Farkas, Raymond )August 11, 2009

9 Edward Bowman, Paul Richard Allen, )

10 Digvijay Laxmansinh Gaekwad, Sherry )

11 Dianne Dickinson and Stuart Lockard )

12 Scott, )

13 Respondents )

14  
15 I. STATEMENT OF ALLEGATIONS

16 The Staff of the Banking Department, State of New Hampshire (the  
17 "Department") alleges the following facts:

18 Facts Common on All Counts:

- 19 1. Respondent Taylor, Bean & Whitaker Mortgage Corp.
- 20 ("Respondent Taylor Bean") has been licensed in New
- 21 Hampshire (RSA 397-A) as a Mortgage Banker from at least
- 22 January 30, 2003.
- 23 2. Respondent Taylor Bean's principle office and mailing
- 24 address of record with the Department is 315 NE 14<sup>th</sup> Street
- 25 in Ocala, Florida 34470.

1 3. Respondent Taylor Bean's Registered Agent of record with  
2 the Department is CT Corporation System with a principle  
3 office and mailing address of 9 Capitol Street in Concord,  
4 New Hampshire 03301.

5 4. Respondent Lee Bentley Farkas ("Respondent Farkas") is the  
6 93.9% Owner, Chairman, Secretary and Director of  
7 Respondent Taylor Bean.

8 5. Respondent Raymond Edward Bowman ("Respondent Bowman") is  
9 the President of Respondent Taylor Bean.

10 6. Respondent Paul Richard Allen ("Respondent Allen") is the  
11 Chief Executive Officer and a Director of Respondent  
12 Taylor Bean.

13 7. Respondent Digvijay Laxmansinh Gaekwad ("Respondent  
14 Gaekwad") is a Director of Respondent Taylor Bean.

15 8. Respondent Sherry Dianne Dickinson ("Respondent  
16 Dickinson") is the Vice Chairman and a Director of  
17 Respondent Taylor Bean.

18 9. Respondent Stuart Lockard Scott ("Respondent Scott") is  
19 the Chief Operating Officer of Respondent Taylor Bean.

20 Violation of RSA 397-A:10,IV Failure to Update Information on File  
21 with Commissioner:

22 Violation of RSA 397-A:10,III Failure to Provide Notification of  
23 Closing in a Timely Manner:

24 Violation of RSA 397-A:14-b Failure to Fund Mortgage Loan at Closing:

25 Violation of RSA 397-A:17,I(f) Fraudulent Misrepresentations:

1 Violation of RSA 397-A:17, I(g) Dishonest or Unethical Practices in  
2 the Conduct of the Business of Making or Collecting Mortgage Loans:

3 10. Paragraphs 1 through 9 are hereby realleged as fully set  
4 forth herein.

5 11. On August 4, 2009, the Department became aware through a  
6 press release issued by the Department of Housing and Urban  
7 Development ("HUD") (the "Press Release") that the Federal  
8 Housing Administration ("FHA") had suspended Respondent  
9 Taylor Bean from making loans insured by FHA.

10 12. The Press Release further stated that Government National  
11 Mortgage Association ("Ginnie Mae") was defaulting and  
12 terminating Respondent Taylor Bean as an issuer in Ginnie  
13 Mae's mortgage back security program and would be  
14 terminating Respondent Taylor Bean ability to continue  
15 servicing Ginnie Mae securities.

16 13. The Press Release states that the suspension was issued as a  
17 result of Respondent Taylor Bean's failure to submit  
18 required annual financial reports along with failure to  
19 report certain irregular transactions.

20 14. As of the date of this Petition, Respondent Taylor Bean  
21 failed to inform the Department as required by New  
22 Hampshire law that it would not fund loans currently in its  
23 pipeline.

24 15. As of the date of this Petition, Respondent Taylor Bean has  
25 not provided the Department with written notice that it is

1 closing its business as required by New Hampshire law;

2 16. According to a press release by Respondent Taylor Bean on  
3 August 5, 2009, it was disclosed that the corporation was  
4 ceasing all mortgage loan origination operations effective  
5 immediately and that it would not close or fund mortgage  
6 loans in the pipeline; and

7 17. By not funding mortgage loans in the current pipeline that  
8 Respondent Taylor Bean had committed to closing, Respondent  
9 Taylor Bean has engaged in dishonest, fraudulent, illegal,  
10 unfair and/or unethical practices by failing to complete  
11 and/or fund loans in its pipeline that it has committed to  
12 close; and

13 18. By not funding mortgage loans in the current pipeline that  
14 Respondent Taylor Bean had committed to closing, there is a  
15 substantial likelihood that New Hampshire consumers will be  
16 harmed.

17 **II. ISSUES OF LAW**

18 The staff of the Department, alleges the following issues of law:

19 1. The Department realleges the above stated facts in  
20 Paragraphs 1 through 18 as fully set forth herein.

21 2. The Department has jurisdiction over the licensing and  
22 regulation of persons engaged in mortgage banker or broker  
23 activities pursuant to NH RSA 397-A:2 and RSA 397-A:3.

24 3. RSA 397-A:10, III provides that licensees shall provide  
25 written notice to the Department of any proposed closing of

1 any licensed office no later than ten (10) business days  
2 prior to the effective date of such change. Each of the  
3 above named Respondents violated this provision on at least  
4 one occasion as alleged above.

5 4. RSA 397-A:10,IV provides that persons licensed under RSA  
6 Chapter 397-A are under a continuing obligation to update  
7 information on file with the Commissioner. Each of the  
8 above named Respondents failed to update the Commissioner  
9 on at least one occasion as alleged above.

10 5. RSA 397-A:14-b provides that a licensee shall comply with  
11 the provisions of RSA 477:52 relative to the requirements  
12 for the funding of loans at real estate closings. At a  
13 minimum, a closing requires the delivery of a deed if the  
14 transaction is a conveyance, the signing of a note, and the  
15 disbursement of the mortgage loan funds. Each of the above  
16 named Respondents violated this provision on at least one  
17 occasion as alleged above.

18 6. RSA 397-A:17,I(f) provides that a respondent, or licensee,  
19 who has made fraudulent misrepresentations, has  
20 circumvented or concealed, through whatever subterfuge or  
21 device, any of the material particulars or the nature  
22 thereof required to be stated or furnished to a borrower  
23 under the provisions of this chapter, the Commissioner may  
24 by order, upon due notice and opportunity for hearing,  
25 assess penalties or deny, suspend, or revoke a license if

1           it is in the public interest.

2           7. RSA 397-A:17,I(g) provides that a respondent, or licensee,  
3           who has engaged in dishonest or unethical practices in the  
4           conduct of the business of making or collecting mortgage  
5           loans, the Commissioner may by order, upon due notice and  
6           opportunity for hearing, assess penalties or deny,  
7           suspend, or revoke a license if it is in the public  
8           interest.

9           8. RSA 397-A:18,I provides that the Department may issue a  
10          complaint setting forth charges whenever the Department is  
11          of the opinion that the licensee or person over whom the  
12          Department has jurisdiction, has violated any provision of  
13          RSA 397-A or orders thereunder.

14          9. RSA 397-A:21,IV provides that any person who, either  
15          knowingly or negligently, violates any provision of Chapter  
16          397-A, may upon hearing, and in addition to any other  
17          penalty provided for by law, be subject to an  
18          administrative fine not to exceed \$2,500.00, or both. Each  
19          of the acts specified shall constitute a separate  
20          violation, and such administrative action or fine may be  
21          imposed in addition to any criminal penalties or civil  
22          liabilities imposed by New Hampshire Banking laws.

23          10. RSA 397-A:21,V provides that every person who directly or  
24          indirectly controls a person liable under this section,  
25          every partner, principal executive officer or director of

1 such person, every person occupying a similar status or  
2 performing a similar function, every employee of such person  
3 who materially aids in the act constituting the violation,  
4 and every licensee or person acting as a common law agent  
5 who materially aids in the acts constituting the violation,  
6 either knowingly or negligently, may, upon notice and  
7 opportunity for hearing, and in addition to any other  
8 penalty provided for by law, be subject to suspension,  
9 revocation, or denial of any registration or license,  
10 including the forfeiture of any application fee, or the  
11 imposition of an administrative fine not to exceed \$2,500,  
12 or both. Each of the acts specified shall constitute a  
13 separate violation, and such administrative action or fine  
14 may be imposed in addition to any criminal or civil  
15 penalties imposed.

### 16 **III. RELIEF REQUESTED**

17 The staff of the Department requests the Commissioner take the  
18 following action:

- 19 1. Find as fact the allegations contained in section I of this  
20 Staff Petition;
- 21 2. Make conclusions of law relative to the allegations  
22 contained in section II of this Staff Petition;
- 23 3. Pursuant to RSA 397-A:17, order each of the above named  
24 Respondents to show cause why their license should not be  
25 revoked;



