

STATE OF ARKANSAS  
SECURITIES DEPARTMENT

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IN THE MATTER OF  
B.V. MORTGAGE, INC. AND  
BENARD O. VEASLEY  
LITTLE ROCK, ARKANSAS

CEASE AND DESIST  
ORDER ISSUED PURSUANT  
TO ARK. CODE ANN  
§ 23-39-202(b)(1)

ORDER NO. 01-4-M

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CEASE AND DESIST ORDER AND  
REVOCAION OF EXEMPTIONS

On January 16, 2001, the Arkansas Securities Commissioner (the Commissioner) directed that an investigation into the activities of B. V. Mortgage, Inc. and Benard Veasley be conducted by the staff of the Arkansas Securities Department (the Staff) after having received information which indicated possible violations of the Arkansas Mortgage Loan Company and Loan Broker Act, Ark. Code Ann. § 23-39-101 et seq. (Repl. 1994) (the Act).

Pursuant to this investigation, the Staff has obtained evidence which indicates that B. V. Mortgage, Inc. and Benard O. Veasley have violated Ark. Code Ann. §§ 23-39-202(b)(1) and 307 while transacting or offering to transact business as a loan broker or mortgage loan company in Arkansas.

FINDINGS OF FACT

1. Pursuant to an application filed on July 26, 1999, the Commissioner first approved the registration of B.V. Mortgage, Inc. (BVM) as a mortgage loan company on July 30, 1999. The registration was renewed on April 10, 2000. Benard O. Veasley was the incorporator of BVM and is its principal, its manager and its main employee.
2. On January 8, 2001, Mr. Dwight Brown filed a complaint with the Arkansas Securities Department (the Department) stating that BVM owed him \$1,500.00 for appraisal work

and that this account was very delinquent. As of the date of this Order, Mr. Brown has still not received the \$1,500.00 due from BVM.

3. Connecticut Surety Company, which issued the \$35,000 surety bond required by the Act at Ark. Code Ann. § 23-39-304 (Repl. 1999), notified the Commissioner twice that the surety bond would be canceled within sixty days, the first notice being received on September 28, 2000 and the second on October 9, 2000. These notices were sent because the premium on the surety bond had been paid in both cases with checks written on BVM's account which were returned due to insufficient funds. In each case Veasley paid the premium in cash before the sixty day period ran, and the bond was not canceled.
4. On October 27, 2000, Ms. Jerrie J. Gray of Searcy, Arkansas filed a complaint with the Department stating that BVM had failed to pay her homeowner's hazard insurance premium from the funds given to it because BVM's check was returned due to "insufficient funds".
5. On January 18 and January 19, 2000, Mr. Rhys Rogers and Mr. Charles Handley of the Department conducted an examination of BVM at its office. This examination revealed the following:
  - A. BVM had no books so its assets, liabilities, net worth, and profitability could not be readily determined.
  - B. BVM's checking account statements reflect that since July 1, 2000, there were fifteen items returned because of "insufficient funds" and the accounts had deficit balances a number of times.
  - C. On many of the loan files reviewed, there was no proof that BVM issued "Good Faith Estimates," especially on the loans that were not closed, within three

business days after the loan application was received as required by the federal Real Estate Settlement Procedures Act.

- D. At least on one loan, the Sam Green loan, BVM took up front fees for appraisals, etc., and did not deposit the funds in an escrow account as required by the Act at Ark. Code Ann. §23-39-309 (Repl. 1999).
- E. For two of the appraisal fees due Mr. Brown, the Bonner and Winfrey loans, the loans had closed more than two months before, and BVM had still not paid Mr. Brown, even though BVM had received the funds for the appraisals at closing.

#### CONCLUSIONS OF LAW

- 6. The Commissioner is charged with the administration and enforcement of the Act pursuant to Ark. Code Ann. § 23-39-201 (Repl. 1994).
- 7. Ark. Code Ann. § 23-39-202(b)(1)(B) (Repl. 1994) states that whenever it appears to the Commissioner that any mortgage loan company or loan broker has engaged in or is about to engage in any act or practice in violation of the Act or any rule or regulation or order thereunder, or the assets or capital of any mortgage loan company is impaired or the mortgage loan company's affairs are in an unsafe condition, the Commissioner may summarily order the mortgage loan company or loan broker to cease and desist from such act or practice.
- 8. Ark. Code Ann. § 23-39-307(a)(2) (Supp. 1999) states that the Commissioner may reject, suspend or revoke any registration when the applicant or registrant is unfit, through lack of financial responsibility, to conduct the business of a mortgage loan company or loan broker.

9. Ark. Code Ann § 23-39-307(a)(3) (Supp. 1999) states that the Commissioner may reject, suspend or revoke any registration when the applicant or registrant does not conduct his business in accordance with law or has violated any provision of the Act.
10. Ark. Code Ann. § 23-39-307(a)(5) (Supp. 1999) states that the Commissioner may reject, suspend or revoke any registration when the registrant is in such financial condition that he cannot continue in business with safety to his customers.
11. Ark. Code Ann. § 23-39-306(a) (Supp. 1999), provides that a mortgage loan company can be exempt from the registration, bond and net worth requirements of the Act if it complies with any one of a list of situations.
12. Ark. Code Ann. § 23-39-307(b) (Supp. 1999) provides that the Commissioner may revoke any exemption available under the Act for any of the grounds set forth in Ark. Code Ann. § 23-39-307(a)(2) - (11) (Repl. 1999).

#### OPINION

13. The Commissioner has jurisdiction over BVM and Veasley, and this matter has been properly brought before the Commissioner who is charged with enforcing the Act in accordance with Ark. Code Ann. § 23-39-201 (Repl. 1994).
14. BVM is operating in an unsafe and unsound and a financially irresponsible manner because it cannot pay its debts and liabilities as they become due in the normal course of business.
15. BVM is operating in an unsafe, unsound and financially irresponsible manner because it does not have or maintain books from which its assets, liabilities, net worth or profitability can readily be determined.

16. BVM, by failing to escrow appraisal and other fees which were collected up front from the borrower, as required by Ark. Code Ann. § 23-39-309, has violated the Act.
17. BVM, by failing to issue "Good Faith Estimates" to loan applicants as required by the Real Estate Settlement Procedures Act, has operated in unsafe and unsound manner and violated federal law.
18. Veasley, as the principal and manager of BVM, allowed BVM to operate in an unsafe, unsound and financially irresponsible manner by not seeing that books were maintained, debts were paid in a timely manner and the Act and federal law were followed.
19. This Order is in the public interest.

#### ORDER

IT IS THEREFORE ORDERED pursuant to Ark. Code Ann. § 23-39-202(b)(1) that Benard Veasley and B.V. Mortgage, Inc. CEASE AND DESIST from engaging in all mortgage loan and loan brokering activities which are in violation of the Act including advertising, offering and conducting mortgage loan company and loan brokering business.

IT IS FURTHER ORDERED pursuant to Ark. Code Ann. §§ 23-39-307(a)(2), 307(a)(3) and 307(a)(5) the registration of B.V. Mortgage, Inc. to conduct mortgage loan and loan brokering business in Arkansas is revoked.

IT IS FURTHER ORDERED pursuant to Ark. Code Ann. § 23-39-307(b) (Supp. 1999), the Commissioner can and should revoke any exemption from the registration, bond and net worth requirements of the Act set out at Ark. Code Ann. § 23-39-306(a) (Supp. 1999) of which B.V. Mortgage, Inc. or Benard O. Veasley might attempt to take advantage.

IT IS FURTHER ORDERED that all pending mortgage loan applications now held by B.V. Mortgage, Inc. shall immediately be transferred to a duly registered or exempted mortgage

loan company or loan broker and proof of such filed with the Department within ten (10) days of the receipt of this Order.

B. V. Mortgage, Inc. and Benard O. Veasley are hereby notified of their right to a hearing on this matter. However, if no application for a hearing is made within twenty (20) days of the entry of this order, this order will become final.

WITNESS MY HAND AND SEAL this 25<sup>th</sup> day of January, 2001.



Mac Dodson  
ARKANSAS SECURITIES COMMISSIONER