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4 STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECURITIES DIVISION  
5

6 IN THE MATTER OF:

SDO-61-01

7 PREFERRED FUNDING, INC.

UNDERTAKING AND AGREEMENT

8 Case No. 01-05-202  
9

10 THE STATE OF WASHINGTON TO:

Preferred Funding, Inc.  
733 Seventh Ave, Suite 110  
Kirkland, WA 98033  
11  
12

13 The Securities Division, Department of Financial Institutions, State of Washington  
14 (“Securities Division”), and respondent Preferred Funding, Inc. (“Preferred”) do hereby  
15 agree to this Undertaking and Agreement in settlement of SDO 54-01 and the matters  
16 alleged herein.  
17

18 **FINDINGS OF FACT**

19 1. Preferred is a Washington corporation with its principal place of business  
20 at 733 Seventh Ave, Suite 110, Kirkland, WA 98033.

21 2. Preferred is engaged in the business of offering and selling “Mortgage  
22 Paper Securities” pursuant to the provisions of WAC 460-33A.

23 3. Preferred is a mortgage broker-dealer, as defined in WAC 460-33A-015, and is  
24 licensed with the Securities Division, pursuant to RCW 21.20.040, to effect transactions in  
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UNDERTAKING AND AGREEMENT - 1

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PRESTON GATES & ELLIS LLP  
701 FIFTH AVENUE  
SUITE 5000  
SEATTLE, WASHINGTON 98104-7078  
TELEPHONE: (206) 623-7580  
FACSIMILE: (206) 623-7022

1 mortgage paper securities registered under the provisions of WAC 460-33A.

2 4. The Director entered a Statement of Charges and Notice of Intention to  
3 Suspend and Fine against Preferred on July 16, 2001 alleging that (a) Preferred distributed  
4 funds to borrowers before investors' security interests were recorded; (b) Preferred failed  
5 to maintain investor suitability questionnaires in all loan files; (c) Preferred offered and  
6 sold construction loans to at least 48 investors, without permission of the administrator;  
7 and (d) Preferred offered and sold interests in several construction loans having "as is"  
8 loan to value ratios greater than fifty percent (50%).  
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10 Based upon the above Findings of Fact, the following Undertaking and Agreement  
11 is made.

### 12 **UNDERTAKING**

13  
14 Based on the foregoing, Preferred undertakes not to willfully violate and willfully  
15 fail to comply with:

16 5. WAC 460-33A-060 by failing to record the security interests of investors prior  
17 to disbursing funds to borrowers.

18 6. WAC 460-33A-115(1)(f) by failing to maintain investor suitability  
19 questionnaires.

20 7. WAC 460-33A-035(4) by failing to obtain required written permission of the  
21 administrator prior to offering and selling to more than the maximum number of investors.  
22

23 8. WAC 460-33A-035(1) by offering and selling construction loans unless the  
24 loan to value ratios are within the limits established by WAC 460-33A-035 or any  
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UNDERTAKING AND AGREEMENT - 2

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1 successor provision.

2  
3 **AGREEMENT**

4 Based on the foregoing, the Securities Division and Preferred agree as follows:

5  
6 9. The Securities Division agrees to waive its intention to fine Preferred \$30,000  
7 and to suspend Preferred's mortgage broker-dealer permit and broker-dealer license.

8 10. Prior to the entry of this Undertaking and Agreement, Preferred agrees to pay  
9 \$5,000 to the Securities Division to defray costs and expenses associated with matter.

10 11. Within twelve months of entry of this Undertaking and Agreement, the  
11 Securities Division will perform a follow-up field examination to determine whether or  
12 not Preferred is in compliance with the Undertakings in paragraphs 6 through 9 above.  
13 The Securities Division will notify Preferred, by certified letter, if the follow-up field  
14 examination, as set forth in paragraph 12, reveals that Preferred is not, or at any time  
15 within twelve months of entry of this Undertaking and Agreement, in material compliance  
16 with the provisions of the Undertakings in paragraphs 6 through 9 above. In the event that  
17 Preferred is not in compliance with the Undertakings in paragraphs 6 through 9 above,  
18 Preferred agrees to pay an additional \$5,000 to the Securities Division to cover the costs  
19 and expenses associated with the follow-up examination, within 30 days of the date of  
20 such letter notifying Preferred of material non-compliance.  
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23 12. Preferred waives its right to a hearing in this matter.  
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13. Preferred agrees that the Securities Division has jurisdiction to enter this Undertaking and Agreement.

PREFERRED FUNDING, INC. Date: August , 2001

BY: \_\_\_\_\_  
Name

\_\_\_\_\_  
Title

Dated and entered this 30<sup>th</sup> day of August, 2001.

  
Deborah R. Bortner  
Securities Administrator

Presented by:

\_\_\_\_\_  
Kristina L. Kneip  
Senior Securities Examiner

Approved by:

\_\_\_\_\_  
Michael E. Stevenson  
Chief of Compliance