

CS Order Summary - Case Number: C-17-2289

Name: Respondent Benjamin R. Horton

Order Number: Final Order No.: C-17-2289-18-FO03

Effective Date: December 18, 2018

License Number: Not applicable – Unlicensed activity

License Effect: License Ban

Not Apply Until: Ban for five years

Not Eligible Until: Ban for five years

Prohibition/Ban Until: Ban for five years

Investigation Fee:	\$3,086.40 Note: Joint & Several Liability with three other Respondents.	Due: 30 days after entry of the Final Order	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date:
Fine:	\$300,000.00 Note: Joint & Several Liability with three other Respondents.	Due: 30 days after entry of the Final Order	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date:
Refunds:	See Exhibit A & Exhibit B attached to the Final Order Note: Joint & Several Liability with three other Respondents.	Due: 30 days after entry of the Final Order	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date:

Comments: In addition to the financial obligations, Respondent Benjamin R. Horton must cease and desist from engaging in the business of a mortgage broker and loan originator, is prohibited from participating in the conduct of the affairs of any mortgage broker subject to licensure for a period of five years, and must maintain records in accordance with MBPA.

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

No.: C-17-2289-18-FO03

PREFERRED LAW PLLC a/k/a
CONSUMER DEFENSE LLC a/k/a
CONSUMER LINK, INC. a/k/a
AMERICAN LOAN COUNSELORS a/k/a
MODIFICATION REVIEW BOARD,
JONATHAN P. HANLEY, Manager,
SANDRA X. HANLEY, Manager, and
BENJAMIN R. HORTON, Manager.

FINAL ORDER RE:
BENJAMIN R. HORTON

Respondents.

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I. DIRECTOR'S CONSIDERATION

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A. Default. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director), through her designee, Consumer Services Division Director Charles E. Clark (Director's designee), pursuant to RCW 34.05.440(1). On July 13, 2018, the Director, through the Director's designee, issued a Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist Business, Prohibit From Industry, Order Refunds, Impose Fines, Collect Investigation Fee, and Recover Costs and Expenses (Statement of Charges) against Benjamin R. Horton (Respondent Benjamin R. Horton). A copy of the Statement of Charges is attached hereto and incorporated into this order by this reference. The Statement of Charges was accompanied by a cover letter dated July 30, 2018, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for Respondent Benjamin R. Horton (collectively, accompanying documents).

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On July 30, 2018, the Department served Respondent Benjamin R. Horton with the Statement of Charges and accompanying documents by First-Class mail and Federal Express overnight delivery.

1 On July 31, 2018, the documents sent by Federal Express overnight delivery were delivered. The
2 documents sent by First-Class mail were not returned to the Department by the United States Postal
3 Service.

4 Respondent Benjamin R. Horton did not request an adjudicative hearing within twenty
5 calendar days after the Department served the Notice of Opportunity to Defend and Opportunity for
6 Hearing, as provided for in WAC 208-08-050(2).

7 B. Record Presented. The record presented to the Director's designee for his review and
8 for entry of a final decision includes the Statement of Charges, the cover letter dated July 30, 2018,
9 the Notice of Opportunity to Defend and Opportunity for Hearing, and the blank Application for
10 Adjudicative Hearing for Respondent Benjamin R. Horton, the documentation for service, and the
11 Post Office Address Verification Request completed by the South Jordan Branch Office of the United
12 States Post Office received by the Department on October 19, 2018.

13 C. Factual Findings and Grounds for Order. Pursuant to RCW 34.05.440(1), the
14 Director's designee hereby adopts the Statement of Charges, which is attached hereto.

15 II. FINAL ORDER

16 Based upon the foregoing, and the Director's designee having considered the record and being
17 otherwise fully advised, NOW, THEREFORE:

18 A. IT IS HEREBY ORDERED, That:

- 19 1. Respondent Benjamin R. Horton cease and desist from engaging in the business of
20 a mortgage broker or loan originator.
- 21 2. Respondent Benjamin R. Horton be prohibited from participation, in any manner,
22 in the conduct of the affairs of any mortgage broker subject to licensure by the
23 Director for a period of five years.

3. Respondent Benjamin R. Horton jointly and severally pay, along with Respondent Entities¹, Respondent Sandra X. Hanley, and Respondent Jonathan P. Hanley, refunds to the consumers identified by the Department in the attached Exhibit A and Exhibit B.
4. Respondent Benjamin R. Horton jointly and severally pay, along with Respondent Entities, Respondent Sandra X. Hanley, and Respondent Jonathan P. Hanley, a fine of \$300,000.00.
5. Respondent Benjamin R. Horton jointly and severally pay, along with Respondent Entities, Respondent Sandra X. Hanley, and Respondent Jonathan P. Hanley, an investigation fee of \$3,086.40.
6. Respondent Benjamin R. Horton maintain records in compliance with the Mortgage Broker Practices Act (Act) and provide the Department with the location of the books, records, and other information relating to Respondent's provision of residential mortgage loan modification services in Washington, and with the name, address, and telephone number of the individual responsible for maintenance of such records in compliance with the Act.

B. Reconsideration. Pursuant to RCW 34.05.470, Respondent Benjamin R. Horton has the right to file a Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia, Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondent Benjamin R. Horton. The Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for Reconsideration a prerequisite for seeking judicial review in this matter.

A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written notice specifying the date by which it will act on a petition.

¹ Preferred Law PLLC a/k/a Consumer Defense LLC a/k/a Consumer Link, Inc. a/k/a American Loan Counselors a/k/a Modification Review Board were identified as Respondent Entities in the Statement of Charges No. C-17-2289-18-SC01 and the Final Order No.: C-17-2289-18-FO01.

1 C. Stay of Order. The Director's designee has determined not to consider a Petition to
2 Stay the effectiveness of this order. Any such requests should be made in connection with a Petition
3 for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

4 D. Judicial Review. Respondent Benjamin R. Horton has the right to petition the superior
5 court for judicial review of this agency action under the provisions of chapter 34.05 RCW. For the
6 requirements for filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

7 E. Non-compliance with Order. If you do not comply with the terms of this order,
8 including payment of any amounts owed within 30 days of receipt of this order, the Department may
9 seek its enforcement by the Office of the Attorney General to include the collection of the fine,
10 assessments, late penalties, fees, and refunds imposed herein. The Department also may assign the
11 amounts owed to a collection agency for collection.

12 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for Judicial
13 Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
14 attached hereto.

15 DATED this 18th day of December, 2018.

17 STATE OF WASHINGTON
18 DEPARTMENT OF FINANCIAL INSTITUTIONS

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20 /s/
21 CHARLES E. CLARK
22 Director
23 Division of Consumer Services

1 STATE OF WASHINGTON
2 DEPARTMENT OF FINANCIAL INSTITUTIONS
3 DIVISION OF CONSUMER SERVICES

4 IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Mortgage Broker Practices Act of Washington by:

5 PREFERRED LAW PLLC a/k/a
6 CONSUMER DEFENSE LLC a/k/a
7 CONSUMER LINK, INC. a/k/a
8 AMERICAN LOAN COUNSELORS a/k/a
9 MODIFICATION REVIEW BOARD,
JONATHAN P. HANLEY, manager,
SANDRA X. HANLEY, manager,
BENJAMIN R. HORTON, manager.

Respondents.

No. C-17-2289-18-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO CEASE AND DESIST
BUSINESS, PROHIBIT FROM
INDUSTRY, ORDER REFUNDS, IMPOSE
FINE, COLLECT INVESTIGATION FEE,
and RECOVER COSTS AND EXPENSES

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11 Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of
12 Financial Institutions of the State of Washington (Director) is responsible for the administration of
13 chapter 19.146 RCW, the Mortgage Broker Practices Act (Act). After having conducted an
14 investigation pursuant to RCW 19.146.235, and based upon the facts available as of the date of this
15 Statement of Charges, the Director, through her designee, Division of Consumer Services Director
16 Charles E. Clark, institutes this proceeding and finds as follows:

17 I. FACTUAL ALLEGATIONS

18 1.1 Respondents.

19 A. Respondent Preferred Law PLLC (Respondent Preferred Law) has never been
20 licensed by the Department of Financial Institutions of the State of Washington (Department) to
21 conduct business as a mortgage broker.

22 B. Respondent Consumer Defense LLC (Respondent Consumer Defense) has never
23 been licensed by the Department of Financial Institutions of the State of Washington (Department) to
24 conduct business as a mortgage broker.

1 **C. Respondent Consumer Link, Inc. (Respondent Consumer Link)** has never been
2 licensed by the Department of Financial Institutions of the State of Washington (Department) to
3 conduct business as a mortgage broker.

4 **D. Respondent American Loan Counselors (Respondent ALC)** has never been
5 licensed by the Department of Financial Institutions of the State of Washington (Department) to
6 conduct business as a mortgage broker.

7 **E. Respondent Modification Review Board (Respondent MRB)** has never been
8 licensed by the Department of Financial Institutions of the State of Washington (Department) to
9 conduct business as a mortgage broker.

10 **F. Respondent Entities.** Respondents Preferred Law, Consumer Defense, Consumer
11 Link, ALC, and MRB operated collectively in a common enterprise or scheme as it relates to these
12 factual allegations.

13 **G. Respondent Jonathan P. Hanley (Respondent Jonathan Hanley)** is or was a
14 managing member of Respondent Entities. During the relevant period, Respondent Jonathan Hanley
15 was not licensed by the Department to conduct business as a mortgage broker or loan originator.

16 **H. Respondent Susan X. Hanley (Respondent Susan Hanley)** is or was a managing
17 member of Respondent Entities. During the relevant period, Respondent Susan Hanley was not
18 licensed by the Department to conduct business as a mortgage broker or loan originator.

19 **I. Respondent Benjamin R. Horton (Respondent Horton)** is or was a managing
20 member of Respondent Entities. During the relevant period, Respondent Horton was not licensed by
21 the Department to conduct business as a mortgage broker or loan originator.

22 **1.2 Unlicensed Activity.** Between at least November 2011 and January 2018, Respondents were
23 offering residential mortgage loan modification services to Washington consumers for properties
24 located in Washington State. Respondents entered into contractual relationships, or otherwise held

1 themselves out to be able to perform loan modification services, with approximately 129 Washington
2 consumers to provide those services. The consumers with whom Respondents conducted business as
3 mortgage brokers are identified Attachment A.

4 **1.3 Advance Fee Violations.** On at least four occasions, Respondents collected an advance fee
5 for the provision of those services. The consumers with whom Respondents conducted business as a
6 mortgage broker, and the amount paid is identified in Attachment B.

7 **1.4 Misrepresentations and Omissions.** Respondents represented that they were licensed to
8 provide the residential mortgage loan modification services or omitted disclosing that they were not
9 licensed to provide those services.

10 **1.5 Failure to Comply with the Department's Investigative Authority.** On or about November
11 21, 2017, the Department issued a Subpoena to Respondents. The time and manner by which
12 Respondents were obligated to reply to the Subpoena's request for information were identified. The
13 deadline to respond was identified as December 21, 2017. Respondents have not to date submitted a
14 complete response to the Department's Subpoena.

15 **1.6 On-Going Investigation.** The Department's investigation into Respondents' alleged
16 violations of the Act continues to date.

17 II. GROUNDS FOR ENTRY OF ORDER

18 **2.1 Mortgage Broker Defined.** Pursuant to RCW 19.146.010(14), "Mortgage broker" means
19 any person who for direct or indirect compensation or gain, or in the expectation of direct or indirect
20 compensation or gain (a) assists a person in obtaining or applying to obtain a residential mortgage
21 loan or performs residential mortgage loan modification services or (b) holds himself or herself out as
22 being able to assist a person in obtaining or applying to obtain a residential mortgage loan or provide
23 residential mortgage loan modification services."

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1 **2.2 Loan Originator Defined.** Pursuant to RCW 19.146.010(11)(b), “‘Loan originator’ means a
2 natural person who for direct or indirect compensation or gain or in the expectation of direct or
3 indirect compensation or gain performs residential mortgage loan modification services or holds
4 himself or herself out as being able to perform residential mortgage loan modification services.”

5 **2.3 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondents
6 are in apparent violation of RCW 19.146.0201(1), (2) & (3) for engaging in an unfair or deceptive
7 practice toward any person and obtaining property by fraud or misrepresentation.

8 **2.4 Requirement to Obtain and Maintain Mortgage Broker License.** Based on the Factual
9 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.200(1)
10 for engaging in the business of a mortgage broker for Washington residents or property without first
11 obtaining a license to do so.

12 **2.5 Requirement to Obtain and Maintain Loan Originator License.** Based on the Factual
13 Allegations set forth in Section I above, Respondents Jonathan Hanley, Sandra Hanley, and Benjamin
14 Horton are in apparent violation of RCW 19.146.200(1) for engaging in the business of a loan
15 originator without first obtaining and maintaining a license.

16 **2.6 Prohibition against Taking Advance Fees.** Based on the Factual Allegations set forth in
17 Section I above, Respondents are in apparent violation of RCW 19.146.0201(11) and 16 CFR 322.5
18 (MARS Rule) remodified as 12 CFR 1015 (Regulation O), for taking advance fees for loan
19 modification services.

20 **2.7 Requirement to Comply with the Department’s Investigative Authority.** Based on the
21 Factual Allegations set forth in Section I above, Respondents are in apparent violation of
22 RCW 19.146.235(2) for failing to comply with the Department’s investigative authority.

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1 X. Hanley, Benjamin R. Horton be prohibited from participation, in any manner, in the
2 conduct of the affairs of any mortgage broker subject to licensure by the Director for a
period of five years.

3 **4.3** Respondents Preferred Law PLLC, Consumer Defense LLC, Consumer Link, Inc.,
4 American Loan Counselors, Modification Review Board, Jonathan P. Hanley, Sandra
5 X. Hanley, Benjamin R. Horton jointly and severally refund to the consumers
6 identified by the Department in Appendix A in the amount of \$200,000.00
7 collectively, and that Respondents jointly and severally refund to each Washington
8 consumer with whom they entered into a contract for residential mortgage loan
modification services related to real property or consumers located in the state of
Washington equal to the amount collected from that Washington consumer for those
services to be determined at hearing or by Declaration with supporting documentation
in event of default by Respondents.

9 **4.4** Respondents Preferred Law PLLC, Consumer Defense LLC, Consumer Link, Inc.,
10 American Loan Counselors, Modification Review Board, Jonathan P. Hanley, Sandra
X. Hanley, Benjamin R. Horton jointly and severally pay a fine, which as of the date
of this Statement of Charges totals \$300,000.00.

11 **4.5** Respondents Preferred Law PLLC, Consumer Defense LLC, Consumer Link, Inc.,
12 American Loan Counselors, Modification Review Board, Jonathan P. Hanley, Sandra
X. Hanley, Benjamin R. Horton jointly and severally pay an investigation fee, which
as of the date of this Statement of Charges totals \$3,086.4.

13 **4.6** Respondents Preferred Law PLLC, Consumer Defense LLC, Consumer Link, Inc.,
14 American Loan Counselors, Modification Review Board, Jonathan P. Hanley, Sandra
15 X. Hanley, Benjamin R. Horton maintain records in compliance with the Act and
16 provide the Department with the location of the books, records and other information
relating to Respondents' provision of residential mortgage loan modification services
in Washington, and the name, address and telephone number of the individual
responsible for maintenance of such records in compliance with the Act.

17 **4.7** Respondents pay the Department's costs and expenses for prosecuting violations of the
18 Act in an amount to be determined at hearing or by Declaration with supporting
19 documentation in event of default by Respondents.

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

APPENDIX A

CONSUMER	FEE PAID
V.A.	\$5,796
T.A.	\$600
K.A.	\$4,158
I.A.	\$1,300
R.A.	\$3,450
R.A.	\$3,900
C.B.	\$6,237
P.B.	\$3,120
R.B.	\$1,000
D.B.	\$5,381
I.C.	\$9,411
D.C.	\$2,600
J.C.	\$1,900
H.C.	\$1,650
R.C.	\$3,900
L.C.	\$7,792
M.C.	\$3,900
G.C.	\$1,485
M.C.	\$650
M.C.	\$3,900
M.C.	\$650
J.C.	\$1,300
D.D.	\$5,088
W.D.	\$4,464
M.F.	\$3,900
R.F.	\$4,490
R.F.	\$600
W.G.	\$3,900
F.G.	\$2,079
R.G.	\$3,250
B.G.	\$4,525
F.G.	\$1,000
D.G.	\$1,900
P.H.	\$3,922
D.H.	\$3,897

J.H.	\$5,385
R.J.	\$4,125
T.K.	\$650
S.L.	\$6,534
B.L.	\$3,896
S.M.	\$1,188
R.M.	\$3,900
D.M.	\$3,900
K.M.	\$4,494
F.M.	\$4,550
E.M.	\$750
T.P.	\$1,782
J.P.	\$4,996
A.R.	\$925
C.R.	\$1,780
L.S.	\$1,194
R.S.C.	\$3,900
K.P.	\$2,950
S.S.	\$650
M.S.	\$3,900
R.S.	\$2,450
T.T.	\$4,821
L.T.	\$8,510
M.V.	\$3,000
L.W.	\$3,900
S.W.	\$2,675
D.W.	\$5,049
C.Z.	\$2,673

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

APPENDIX B

CONSUMER	ADVANCE FEE PAID
M.C.	\$650
R.G.	\$650
J.N.	\$1,300
S.W.	\$650