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3 **STATE OF OREGON**  
4 **DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**  
5 **DIVISION OF FINANCE AND CORPORATE SECURITIES**

6 **BEFORE THE DIRECTOR OF THE DEPARTMENT**  
7 **OF CONSUMER AND BUSINESS SERVICES**

8 In the Matter of:

**DM-15-0011**

9 Preferred Law PLLC, Modification Review  
10 Board LLC, American Home Loan Counselors,  
11 and Benjamin R. Horton,

**Final Order to Cease and Desist and Final  
Order Assessing Civil Penalties Entered by  
Default as to Preferred Law PLLC,  
Modification Review Board LLC, and  
American Home Loan Counselors only**

12 Respondents.

13 On September 16, 2015, the Director of the Department of Consumer and Business  
14 Services for the State of Oregon (the Director), acting pursuant to the Oregon statutes regulating  
15 mortgage lending, ORS 86A.100 et seq., and Oregon Administrative Rules (OAR) 441-850-  
16 0010 through 441-885-0010 (collectively Oregon Mortgage Lender Laws and Rules), and ORS  
17 697.602 to 697.842, OAR 441-910-0000 through 441-910-0200 (hereinafter “the Oregon Debt  
18 Management Service Provider law”), issued Administrative Order (Order) Order to Cease and  
19 Desist , Proposed Order Assessing Civil Penalties and Notice of Right to a Hearing for  
20 Preferred Law PLLC, Modification Review Board LLC, American Home Loan Counselors, and  
21 Benjamin R. Horton.

22 On September 21, 2015 a true copy of the Order was mailed by regular, first-class mail  
23 and by certified mail postage prepaid addressed as follows: Benjamin R. Horton, Modification  
24 Review Board LLC, 2825 E. Cottonwood Parkway Ste. 500, Salt Lake City, UT 84121;  
25 Benjamin R. Horton, Preferred Law PLLC, 2825 E. Cottonwood Parkway Ste. 500, Salt Lake  
26 City, UT 84121; Modification Review Board, 9035 S 700 Ste. 203, Sandy, UT 84070;  
American Home Loan Counselors, 8180 S 700 Ste. 110, Sandy, UT 84070; Jonathan Hanley,





1 American Home Loan Counselors, 9035 S 700 Ste. 203, Sandy, UT 84070; Preferred Law  
2 PLLC 2825 E Cottonwood Parkway Ste. 500, Salt Lake City, UT 84121.

3 The certified mailings addressed to Benjamin R. Horton, Preferred Law PLLC; Preferred  
4 Law PLLC; and Benjamin R. Horton, Modification Review Board were all signed for on or  
5 about September 25, 2015. The signature is the same on all three certified mailing cards and the  
6 certified mailing cards were received by the Director on or about September 29, 2015.

7 The certified mailing for American Home Loan Counselors was received on September  
8 24, 2015 and was signed for by Brianne M. The certified mailing card was received by the  
9 Director on or about September 29, 2015.

10 The certified mailings to Jonathan Hanley, American Home Loan Counselors and to  
11 Modification Review Board were signed for by the same person although the signature is not  
12 legible. The only date on the returned certified mailing cards is September 25, 2015.

13 On October 8, 2015, the Director received a document on Preferred Law letterhead dated  
14 October 5, 2015, stating that the Order issued by the Director was contested and that the  
15 undersigned respondents requested a hearing<sup>1</sup>. The document was signed by Benjamin Horton  
16 personally, and for Preferred Law, PLLC; Jonathan Hanley for Modification Review Board,  
17 LLC, and for American Home Loan Counselors.

18 On October 26, 2015, a courtesy letter was sent to the Respondents at their previously  
19 listed addresses. The letter, sent certified and regular mail, stated that the Director had received  
20 their request for hearing and that the corporate entities needed to be represented by an attorney,  
21 that Benjamin Horton could only represent himself as an individual because he was not licensed  
22 to practice law in Oregon, and that unless the rules set out in the Notice of Right to  
23 Administrative Hearing were followed, the Director would take a default within 10 days from  
24

25 \_\_\_\_\_  
26 <sup>1</sup> The Request for Hearing needed to be received by October 10, 2015 in order to make the Request timely.  
Because October 10, 2015, fell on a Saturday, the actual date to be considered timely was Monday, October 12,  
2015.

1 the date of the letter. All of the certified mail cards were returned to the Director and indicated  
2 that the documents had been received by Respondents on October 29, 2015.

3 Following a phone conversation and series of emails on October 29, 2015, and  
4 November 6, 2015, the Division agreed to allow Hanley until the end of business on November  
5 12, 2015 to discuss the matter with his attorney before taking a default.

6 As of the date of this order, the Division has not received a ratification of the Request  
7 for Hearing dated October 5, 2015, and received by the Director on October 8, 2015. The time  
8 for filing the ratification pursuant to OAR 137-003-0550 has passed.

9 The Notice Order issued on September 16, 2015, is still in full force and effect as to  
10 Respondent Benjamin R. Horton.

### 11 **FINDINGS OF FACTS**

12 The Director finds that:

13 1. PL was first registered with the State of Utah on October 26, 2011 with a reported  
14 principle place of business as 2825 E Cottonwood Parkway, Ste. 500, Salt Lake City, Utah  
15 84121.

16 2. The managing member for PL is Benjamin R. Horton (Horton). Horton is the registered  
17 agent for PL and MRB. Horton is an attorney and member of the Utah State Bar but Horton is not  
18 a member of the Oregon State Bar.

19 3. Upon information and belief, Benjamin R. Horton is the only attorney at PL.

20 4. MRB was first registered with the State of Utah on October 26, 2011, with a reported  
21 principle place of business as 9035 S 700 Ste. 203, Sandy, Utah 84070.

22 5. AHLC was first registered with the State of Utah on September 21, 2012, with a reported a  
23 principle place of business as 8180 S 700 E Ste. 110, Sandy, Utah 84070.

24 6. Jonathan Hanley (Hanley) is the registered agent for AHLC. The listed address for Hanley  
25 is 9035 S. 700 E Ste. 203, Sandy, Utah 84070. This is the same address as MRB. Jonathan and  
26 Sandra Hanley are the managing members for MRB.





- 1 7. Both PL and AHLC share the same phone number.
- 2 8. The address listed on PL and MRB documents provided to consumers is 9035 S 700 E, Ste.
- 3 203, Sandy, Utah.
- 4 9. PL, AHLC, and MRB shared some of the same employees, including but not limited to
- 5 Jonathan Hanley, Bobbi Collins and Shannon Martinez.
- 6 10. PL and MRB post the same advertisement on their respective web sites.
- 7 11. None of the respondents have ever been registered with the Oregon Secretary of State to do
- 8 business in Oregon.
- 9 12. None of the respondents have ever held a license to engage in residential mortgage
- 10 transactions as a mortgage broker in Oregon and have never been registered to provide debt
- 11 management services in Oregon.

12 DH Transaction

- 13 13. At all times material to this order, consumers DH was an Oregon resident, and was party to
- 14 a home mortgage loan secured by real estate located in Oregon.
- 15 14. On or about March 2012 DH sought a modification of his mortgage through PL.
- 16 15. PL sent DH a packet of forms to fill out and return which DH did.
- 17 16. As part of PL's service, DH also was sent an agreement from MRB. DH completed and
- 18 returned the MRB documents.
- 19 17. As part of the package, PL sent DH a form to sign so that money could be automatically
- 20 deducted from his bank account by PL.
- 21 18. PL deducted the following amounts from DH's account :
- |          |          |
|----------|----------|
| 22 \$650 | 04-16-12 |
| \$650    | 05-15-12 |
| \$650    | 06-15-12 |
| \$650    | 07-16-12 |
| \$650    | 08-15-12 |
| \$650    | 09-17-12 |
| \$297    | 10-25-12 |
| \$297    | 11-28-12 |
| \$297    | 12-31-12 |
| \$297    | 01-25-13 |



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\$297 02-25-13  
\$297 03-26-13

19. The total amount deducted from DH's bank account by PL was \$ 5,682. DH did not receive a loan modification or a refund from PL or MRB.

JB Transaction

20. At all times material to this order, consumer JB was an Oregon resident, and was party to a home mortgage loan secured by real estate located in Oregon.

21. On or about March 2012 JB sought a modification of his mortgage through AHLC.

22. AHLC represented to JB that they could obtain a loan modification for him. A packet of documents was sent to JB to sign. Included in the packet was not only information concerning AHLC, but also documents from PL and MRB for JB to sign. JB signed and returned the documents.

23. Also included in the packet of papers was an agreement to allow PL to make automatic withdrawals from JB's checking account. Listed below are the withdrawals PL made from JB's checking account:

\$650 11-23-12  
\$650 12-19-12  
\$650 01-22-13  
\$650 02-20-13  
\$650 03-20-13  
\$650 04-22-13  
\$297 06-24-13  
\$297 07-23-13  
\$297 08-23-13  
\$297 09-24-13  
\$297 10-22-13  
\$297 11-23-13  
\$297 12-26-13  
\$297 01-22-14  
\$297 02-26-14  
\$297 03-23-14  
\$297 04-28-14  
\$297 05-25-14  
\$297 06-24-14  
\$297 07-22-14

24. The total amount PL deducted from JB’s bank account was \$8,355. JB did not receive a loan modification or a refund from PL, AHLC or MRB.

CONCLUSIONS OF LAW

The Director concludes that:

1. Respondents acted as a “mortgage broker” under ORS 86A.100(5)(a)(C) when they for compensation, or in the expectation of compensation, either directly or indirectly made, negotiated, or offered to make or negotiate a modification to the terms and conditions of a mortgage loan for the DH and the JB transactions.

2. Respondents engaged in “residential mortgage transactions in this state” under ORS 86A.103(2) by acting as a mortgage broker when Respondents offered to negotiate a modification to the terms and conditions of DH and JB’s individual residential mortgage loan secured by property located in Oregon.

3. Respondents violated ORS 86A.103(1) by engaging in residential mortgage transactions in Oregon without first obtaining a license as a mortgage broker under ORS 86A.095 to 86A.198.

4. Respondents engaged in debt management services when they received money or expected to receive money from DH and JB for providing advice, assistance, instruction or instructional material concerning a debt management service, or modifying the terms and conditions of an existing loan under ORS 697.602(2)(c).

5. Respondents violated ORS 697.612(1)(b)(E) when they provided advice, assistance, instruction or instruction material regarding a debt management service to DH and JB when Respondents were not registered as debt management service providers.

6. Respondents violated ORS 697.612(1)(a) by performing a debt management service without being registered with the Director to provide such a service.

Division of Finance and Corporate Securities  
Labor and Industries Building  
350 Winter Street NE, Suite 410  
Salem, OR 97301-3881  
Telephone: (503) 378-4387



1 7. Respondents violated ORS 697.692(1)(a) by accepting or receiving an initial fee of more  
2 than \$50 from DH and JB.

3 8. Respondents misrepresented to DH an JB that they would provide loan modification  
4 services and then failed to provide loan modification services, and failed to provide a refund in  
5 violation of ORS 86A.154(3).

6 9. The identity of Benjamin R. Horton and PL, MRB, and AHLC are so inextricably linked  
7 that they are inseparable from each other, so that the PL, MRB, and AHLC are all the alter egos  
8 of Benjamin R. Horton. Accordingly, equity requires that these respondents be held jointly and  
9 severally liable in order to prevent further injustice.

10  
11 **ORDERS**

12 NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDER:

13 1. Pursuant to ORS 86A.127(4) and 697.825(1)(a), the Director hereby orders  
14 Respondents and all entities owned or controlled by Respondents to cease and desist from  
15 violating the Oregon statutes regulating mortgage lending, ORS 86A.100 et seq., and debt  
16 management service providers, ORS 697.602 to 697.842.

17 2. Pursuant to ORS 86A.992, the Director may assess a civil penalty in the amount not to  
18 exceed \$5,000 per violation against any person who violates or who procures, aids or abets in  
19 the violation of any provision of ORS 86A.095 to 86A.198 or any rule or order issued under  
20 ORS 86A.124 or 86A.242. Pursuant to the authority of ORS 697.832, the Director may assess a  
21 civil penalty in an amount not to exceed \$5,000 per violation against any person who violates  
22 ORS 697.612 or 697.642 to 697.702, rules adopted under ORS 697.632, or any order issued  
23 under ORS 697.825.

24 3. The Director orders Respondents to pay civil penalties, jointly and severally, in the  
25 amount of \$30,000 as follows:





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- a. \$10,000 for committing two violations of ORS 86A.103(1), ORS 697.612(1)(b)(E), and ORS 697.612(1)(a);
- b. \$10,000 for committing two violations of ORS 697.692(1)(a);
- c. \$10,000 for committing two violations of ORS 86A.154(3).

4. In addition to the preceding paragraph, pursuant to ORS 86A.224(2)(c), the Director may order a person subject to regulation under ORS 86A.200 to 86A.239 to pay restitution to a consumer that suffers harm due to the person's acts, omissions, practices or operations or as a result of the person's violation of a provision of ORS 86A.200 to 86A.239.

5. The entry of this Order in no way further limits remedies which may be available to the Director under Oregon law.

Dated this 25th day of November, 2015.

PATRICK M. ALLEN, Director  
Department of Consumer and Business Services

/S/ David Tatman  
David C. Tatman, Administrator  
Division of Finance and Corporate Securities

NOTICE: You may be entitled to judicial review of this Order. Judicial review may be obtained by filing a petition with the Court of Appeals in Salem, Oregon within 60 days from the service of this Order. Judicial review is pursuant to the provisions of ORS 183.482 to the Oregon Court of Appeals.