

## ORDER SUMMARY – Case Number: C-04-014

**Name(s):** Construction Funding Corporation  
Scott C. Michaels

**Order Number:** C-04-014-04-FO01

**Effective Date:** July 14, 2004

**License Number:** DFI: 19237 -[NMLS ID: 976058]Construction Funding  
**Or NMLS Identifier [U/L]** NMLS ID: 270321 - Michaels

(Revoked, suspended, stayed, application denied or withdrawn)  
 If applicable, you must specifically note the ending dates of terms.

**License Effect:** Revoked

**Not Apply Until:** \_\_\_\_\_

**Not Eligible Until:** \_\_\_\_\_

**Prohibition/Ban Until:** Michaels prohibited for 5 yrs

<b>Investigation Costs</b>	\$286.68 pd thru bond	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Fine</b>	\$6,000	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
<b>Assessment(s)</b>	\$530.86 pd thru bond	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Restitution</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Judgment</b>	\$7,472.89 see comment	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
<b>Satisfaction of Judgment Filed?</b>		<input type="checkbox"/> Y <input checked="" type="checkbox"/> N		
No. of Victims:				

Comments: Investigation costs and assessments were paid by RLI Insurance

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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-04-014-04-FO01

FINAL ORDER

Construction Funding Corporation, and  
Scott C. Michaels, Designated Broker,

Respondents.

I. DIRECTOR'S CONSIDERATION

A. Review: This matter has come before the Director to review the Statement of Charges and Notice of Intent to Revoke License, Impose Fines, and Prohibit from Participation in the Mortgage Broker Industry (Statement of Charges) entered by the Director through her designee, Acting Assistant Director Chuck Cross, on February 24, 2004. A copy of the Statement of Charges is attached and incorporated into this order by this reference. In every attempt to serve Respondents, the Statement of Charges was accompanied by a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Construction Funding Corporation and Scott C. Michaels.

Statutory Service: Pursuant to RCW 19.146.260, on April 16, 2004, the Department: 1) mailed the Statement of Charges by Certified Mail to Construction Funding Corporation's Registered Agent, CT Corporation System, which CT Corporation System received on April 19, 2004; and 2) sent the Statement of Charges to Construction Funding Corporation by Registered Mail to Construction Funding Corporation's last known address: 425 North Martingale Road Suite 1350, Schaumburg Illinois, 60173. The Registered Mail was returned by the US Post Office as "Not Deliverable as Addressed Unable to Forward." The Department did not receive any request for administrative hearing.

Other Attempted Service: The Department attempted to serve the Statement of Charges on Respondents by regular US Mail on March 6, 2004, at its last known address, however that attempt failed, and the mailing was returned to the Department as "Moved Left No Forwarding Address."

FINAL ORDER

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DEPARTMENT OF FINANCIAL INSTITUTIONS  
Consumer Services Division  
PO Box 41200  
Olympia, WA 98504-1200

Construction Funding Corporation and  
Scott C. Michaels  
No. C-04-014-04-FO01

1 B. Record of Proceedings: The record presented to the Director for her review and for entry of a  
2 final decision included the Statement of Charges, the Notice of Opportunity to Defend and Opportunity for  
3 Hearing, the blank Application for Adjudicative Hearing, and documentation of service.

4 C. Factual Findings and Grounds For Order: Pursuant to RCW 34.05.440(1), the Director hereby  
5 adopts the Statement of Charges, which is attached hereto.

6  
7 II. FINAL ORDER

8 Based upon the foregoing, and the Director having considered the entire record and being otherwise  
9 fully advised, NOW, THEREFORE:

10 A. IT IS HEREBY ORDERED, That:

- 11 1. The mortgage broker license held by Respondent Construction Funding Corporation is  
12 revoked; and
- 13 2. Respondent Scott C. Michaels is prohibited from participation in the conduct of the affairs  
14 of any licensed mortgage broker for a period of five (5) years; and
- 15 3. Respondents, jointly and severally, pay the annual assessment due, in the amount of \$530.86;  
16 and
- 17 4. Respondents, jointly and severally, pay an examination fee of \$286.68, calculated at \$47.78  
18 per hour for each staff hour devoted to the investigation (6 hours); and
- 19 5. Respondents, jointly and severally, pay a fine of \$6000.00 calculated at \$100.00 per day for  
20 30 days for:
- 21 a) One violation of RCW 19.146.205(4); and
  - 22 b) One violation of RCW 19.146.265.

23 B. Reconsideration: Pursuant to RCW 34.05.470, Respondents have the right to file a Petition for  
24 Reconsideration stating the specific grounds upon which relief is requested. The Petition must be filed in the  
25 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 Respondents. 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.

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

4 C. Stay of Order: The Director has determined not to consider a Petition to Stay the effectiveness of  
5 this order. Any such requests should be made in connection with a Petition for Judicial Review made under  
6 chapter 34.05 RCW and RCW 34.05.550.

7 D. Judicial Review: Respondents have the right to petition the superior court for judicial review of  
8 this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing a Petition for  
9 Judicial Review, see RCW 34.050.510 and sections following.

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

12  
13 DATED this 14<sup>th</sup> day of July, 2004.



14  
15 STATE OF WASHINGTON  
16 DEPARTMENT OF FINANCIAL INSTITUTIONS



17  
18 Helen P. Howell  
19 Director

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

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

Construction Funding Corporation, and  
Scott C. Michaels, Designated Broker,

Respondents.

NO. C-04-014-04-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENT TO REVOKE LICENSE,  
IMPOSE FINES, AND PROHIBIT FROM  
PARTICIPATION IN THE MORTGAGE BROKER  
INDUSTRY

**INTRODUCTION**

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial Institutions of the State of Washington ("Director") is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act ("Act"). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation, and based upon the facts available as of February 13, 2004, the Director institutes this proceeding and finds as follows:

**I. FACTUAL ALLEGATIONS**

**1.1 Respondents:**

A. **Construction Funding Corporation ("Construction Funding")** is known to have conducted the business of a mortgage broker at:

425 North Martingale Road Suite 1350  
Schaumburg Illinois 60173

B. **Scott C. Michaels ("Michaels")** is known to be an owner of Construction Funding. Michaels was named designated broker on July 31, 2000.

1 **1.2 License:** Construction Funding was licensed by the Department of Financial Institutions  
2 (“Department”) to conduct business as a mortgage broker on July 31, 2000, and has continued to be licensed to  
3 date.

4 **1.3 Failure to Pay Annual Assessment:** Payment of the annual assessment is due to the Department no  
5 later than the last business day of July of each year. To date, the Department has not received the following  
6 annual assessments due from Respondents:

7 A. Payment of the annual assessment of \$530.86 for the year 2003 was due to the Department no  
8 later than the last business day of July 2003.

9 B. Payment of the annual assessment of \$530.86 for the year 2004 will be due to the Department  
10 no later than the last business day of July 2004.

11 **1.4 Failure to Maintain Bond:** On September 15, 2003, the Department received notice from RLI Surety  
12 Division of RLI Insurance Company, that Construction Funding’s surety bond was cancelled. To date,  
13 Respondents have not notified the Department that Construction Funding’s surety bond had been cancelled, nor  
14 have Respondents replaced the surety bond.

15 **1.5 Failure to Submit Continuing Education Certificate:** A certificate of satisfactory completion of an  
16 approved continuing education course was due to the Department no later than the last day of July of 2003. To  
17 date, the Department has not received the required certificate due from Respondent Michaels.

18 **1.6 Failure to Respond to Directive Requirement:** On October 22, 2003, the Department issued a  
19 directive to Respondents requiring replacement of Construction Funding’s bond. To date, the Department has  
20 not received a response to its directive.

21 **1.7 Failure to Notify DFI of Significant Developments:**

22 A. As stated in 1.4 above, to date, Respondents have not notified the Department of the  
23 cancellation of its surety bond.

24 B. Construction Funding’s corporate license, maintained with the office of the Secretary of State,  
25 expired on March 31, 2003. To date, Respondents have not notified the Department of this

1 change in Construction Funding's status with the Secretary of State, nor has Construction  
2 Funding renewed its corporate license.

3 C. Construction Funding's Master Business License account with the Washington State  
4 Department of Licensing was dissolved on June 23, 2003. To date, Respondents have not  
5 notified the Department of this change in Construction Funding's Master Business License.  
6

## 7 II. GROUNDS FOR ENTRY OF ORDER

8 **2.1 Requirement to Pay Annual Assessments:** Pursuant to RCW 19.146.228 and WAC 208-660-060(3),  
9 every licensed mortgage broker shall pay an annual assessment no later than the last business day of the month  
10 in which the anniversary date of the issuance of the license occurs.

11 **2.2 Requirement to Maintain Bond:** Pursuant to RCW 19.146.205(4), each licensee shall file and  
12 maintain a surety bond.

13 **2.3 Requirement to Submit Certificate of Completion of Continuing Education:** Pursuant to RCW  
14 19.146.215, the designated broker of every licensee shall complete an annual continuing education  
15 requirement. Pursuant to WAC 208-660-042, each licensee must file annually a certificate of satisfactory  
16 completion of an approved continuing education course.

17 **2.4 Requirement to Notify of Significant Developments:** Pursuant to WAC 208-660-150(1)(e), every  
18 licensee must notify the Director within thirty days after receiving notification of the cancellation of the  
19 licensee's surety bond. Pursuant to WAC 208-660-150(3)(e) and (f), every licensee must notify the Director  
20 within five days after a change in the licensee's state master business licensee or standing with the state of  
21 Washington Secretary of State.

22 **2.5 Authority to Revoke License:** Pursuant to RCW 19.146.220(2)(b)(ii) and (iii), and WAC 208-660-  
23 160(1), (2), (8), and (13), the Director may revoke a license for failure to pay a required annual assessment, for  
24 failure to maintain the required surety bond, and for failure to comply with any directive or order of the  
25 Director.

1 **2.6 Authority to Charge Examination Fee:** Pursuant to RCW 19.146.228(2), and WAC 208-660-060(2),  
2 upon completion of any examination of the books and records of a licensee, the Department will furnish to the  
3 licensee a billing to cover the cost of the examination. The examination charge will be calculated at the rate of  
4 forty-seven dollars and seventy-eight cents (\$47.78) per hour that each staff person devoted to the examination.

5 **2.7 Authority to Impose Fine:** Pursuant to RCW 19.146.220(2)(c)(i) and (ii) and WAC 208-660-165, the  
6 Director may impose fines on the licensee for failure to maintain the required surety bond, and for failure to  
7 comply with any directive or order of the Director.

8 **2.8 Authority to Prohibit from the Industry:** Pursuant to RCW 19.146.220(2)(e)(i) and (iv), the Director  
9 may prohibit a covered individual from participation in the conduct of the affairs of a licensed mortgage broker for  
10 failure to maintain the required surety bond and for failure to comply with any directive or order of the Director.

11  
12 **III. NOTICE OF INTENT TO ENTER ORDER**

13 Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth  
14 in the above Facts and Grounds for Entry of Order, constitute a basis for the entry of an Order under RCW  
15 19.146.220. Therefore, it is the Director's intention to ORDER that:

- 16 3.1 The mortgage broker license held by Respondent Construction Funding Corporation be revoked; and  
17 3.2 Respondent Scott C. Michaels be prohibited from participation in the conduct of the affairs of any  
18 licensed mortgage broker for a period of five (5) years; and  
19 3.3 Respondents, jointly and severally, pay the annual assessment due, in the amount of \$530.86, as  
20 calculated in 1.3 above; and  
21 3.4 Respondents, jointly and severally, pay an examination fee of \$286.68, calculated at \$47.78 per hour  
22 for each staff hour devoted to the investigation (6 hours); and  
23 3.5 Respondents, jointly and severally, pay a fine of \$6000.00 for:  
24 a) Failure to maintain the required bond, calculated at \$100.00 per day for 30 days; and  
25 b) Failure to comply with a directive, calculated at \$100.00 per day for 30 days.

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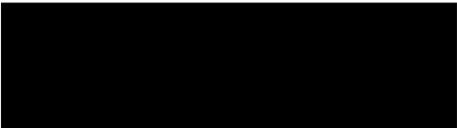
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1 **IV. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice is entered pursuant to the provisions of RCW 19.146.220,  
3 RCW 19.146.221 and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The  
4 Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in the  
5 NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this  
6 Statement of Charges and Notice of Intent to Revoke License, Impose Fines and Prohibit from Participation in  
7 the Mortgage Broker Industry.

8 Dated this 24<sup>th</sup> day of FEBRUARY, 2004.



11 CHUCK CROSS, ACTING DIRECTOR  
12 DIVISION OF CONSUMER SERVICES  
13 DEPARTMENT OF FINANCIAL INSTITUTIONS

14 Presented by:

15 Victoria W. Sheldon, Financial Legal Examiner

