Interest on $672.00 for three and one-half months is $11.76. Again the debtor was given no rebate when the loan was "flipped."

The fifth note is for $2952.00, interest charged is $531.36. Although the fourth loan had some 21 months yet to run and interest had been charged for that period, the debtor was given no rebate for interest.

Had new loans been made instead of "flipping" the prior loans Merit could not have charged interest on the old loan, e.g., the second loan would have been for $203.11 plus legal charges, which total considerably less than the $378.00 note executed by the debtor. The same is true of the other loans. When the third loan was "flipped" the debtor received only $9.89; the face amount of the note was increased however from $552.00 to $672.00 even though the debtor had repaid $44.85 on the third loan. The reason for "flipping" the loans is obvious.

It is my conclusion that Merit "flipped" the loans so that it could again collect interest (and investigation charges) on the old balances even though interest (and investigation charges) had already been imposed. Does such practice constitute usury under the Tennessee statute and decisions?

If the transaction is intended as a device to evade the statute, it constitutes usury. *Nashville Bank v. Hays*, 9 Tenn. 243; *Lawrence v. Morrison*, 9 Tenn. 444; *Weatherhead v. Boyers*, 15 Tenn. 545; *Turney v. State Bank*, 24 Tenn. 407; *Doak v. Snapp*, 41 Tenn. 180.

When the facts are made to appear, no scheme or device to avoid application of usury statutes, regardless of how ingenious or intricate scheme or device may be, will permit anyone guilty of participating in a usurious transaction to escape its consequences, and consent or cooperation of one paying the usurious interest is immaterial. *Providence A.M.E. Church v. Sauer*, 45 Tenn. App. 287.

In determining whether or not a given transaction is usurious, the court will disregard form and look to substance.

". . . it is not to be tolerated for men to do indirectly what they are forbidden to do directly, the courts of justice have always stripped the transaction of its guise, and pronounced upon it according as the intention may be spelled out." *Weatherford v. Boyers*, 15 Tenn. 545, 563.

Any method through which usurious rate may be obtained is violation of law. *Dowler v. Georgia Enterprises*, 162 Tenn. 59.

In *Cobb v. Puckett*, ——— Tenn. App. ———, Judge Parrott labeled the practice by loan companies of charging investigation fees where no investigations are made and charging for insurance premiums without the knowledge of the borrower as "one step removed from pickpocketing and larcency."

An intention to violate the law, as a necessary element of usury, may be implied if other elements are present. *Jenkins v. Dugger*, 96 F. 2d 727.

It is my conclusion that the "flipping" of loans in the transactions under consideration was a plan or scheme to enable Merit to obtain an excess over the legal rate of interest. The consent or cooperation of the debtor is immaterial. The transaction is a continued one; although new advances were made and new instruments were executed, each note refers to the previous one.

INVESTIGATION CHARGES

Tennessee Code Annotated 45–2007(i) authorizes industrial loan and thrift companies—

"To charge for services rendered and expenses incurred in connection with investigating the moral and financial standing of the applicant, security for the loan, investigation of titles and other expenses incurred in connection with the closing of any loan an amount not to exceed four dollars ($4.00) per each one hundred dollars ($100) of the principal amount loaned, and a proportionate amount for any greater or lesser amount loaned, provided no charge shall be collected unless a loan shall have been made."

Merit's records filed in this proceeding indicate the following charges for investigation:

Loan No.	Amount of note	Investigation charge
63-235	$72	$2.88
63-337	378	15.12
63-483	552	22.08
63-1074	672	26.88
63-1396	2,952	118.08