

1                               BEFORE THE DIRECTOR OF THE  
2                               DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
3                               DIVISION OF FINANCE AND CORPORATE SECURITIES  
4                               FINANCE SECTION  
5                               STATE OF OREGON

4   In the Matter of:                               )                               P 7.263.1  
5   WILLOW CANYON CO LLC                               )                                 
6   abn CHECK EXPRESS                               )                               ORDER TO CEASE AND DESIST  
7                               )                               ORDER TO ASSESS CIVIL PENALTY  
8                               RESPONDENT                               )                               CONSENT TO ENTRY OF ORDER

8               **WHEREAS** the Director of the Department of Consumer and  
9 Business Services conducted an examination of WILLOW CANYON CO  
10 LLC abn CHECK EXPRESS and has determined that WILLOW CANYON CO  
11 LLC abn CHECK EXPRESS engaged in activities constituting  
12 violations of ORS 725, the Oregon Consumer Finance Act and  
13 related regulations in OAR chapter 441, division 730; and

14               **WHEREAS** WILLOW CANYON CO LLC abn CHECK EXPRESS wishes to  
15 resolve and settle this matter with the Director;

16               **NOW THEREFORE**, as evidenced by the authorized  
17 signature(s) subscribed on this Order, WILLOW CANYON CO LLC  
18 abn CHECK EXPRESS **CONSENTS** to entry of this Order upon the  
19 Director's Findings of Fact and Conclusions of Law as stated  
20 below.

21                               **FINDINGS OF FACT**

22 1. WILLOW CANYON CO LLC abn CHECK EXPRESS (hereinafter  
23 "respondent") is a domestic business corporation, qualified  
24 with the Oregon Secretary of State since May 28, 1997.

25 / / / /  
26 / / / /

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Labor and Industries Building  
350 Winter Street NE, Suite 410  
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Telephone: (503) 378-4387



1 2. Respondent conducts a consumer loan business and operates  
2 from one office in Madras, Oregon which is licensed pursuant  
3 to the provisions of ORS 725.

4 3. Richard L. Allen is the President and agent for service of  
5 process for Respondent. Service may be made at 380 SW 5<sup>th</sup>  
6 Street, Madras, Oregon 97741.

7 4. On December 15, 2003 an examination of the Madras office  
8 was conducted by Examiner Larry Sisson. In the course of the  
9 examination, Examiner Sisson observed procedures and omissions  
10 by WILLOW CANYON CO LLC abn CHECK EXPRESS as described below:

11 a. Borrower records contained no information concerning  
12 income and other outstanding loans on which the  
13 borrower is the payor or guarantor from which the  
14 Respondent could make a good faith determination of  
15 the borrower's ability to repay a loan.

16 b. Books and records of any transactions prior to current  
17 transactions were not preserved and available for  
18 examination.

19 c. The amount of the loan on loan documents was  
20 consistently shown as One Hundred Eighteen Dollars  
21 (\$118), which repeatedly failed to coincide with the  
22 loan amount for that borrower on that date in the  
23 Respondent's computer system.

24 d. The annual percentage rate of interest was incorrectly  
25 reflected on loan documents. The stated APR appeared  
26 to be for a loan of \$100, not the stated loan amount

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1 of \$118 or the actual loan amount for the borrower on  
2 that date.

3 e. Notes indelibly marked as "paid" or "renewed" were not  
4 retained in the borrower's file.

5 f. Respondent failed to produce any records to  
6 demonstrate that loans paid before maturity were  
7 properly credited with a refund of unearned interest.  
8 The Respondent's manager stated that some loans were  
9 paid before maturity but the computer system was  
10 unable to compute a refund.

11 g. The Annual Percentage Rate charged by the Respondent  
12 was not conspicuously posted. This omission was  
13 corrected during the examination.

14 h. Respondent placed in charge of the licensed office a  
15 person who did not have current copies of ORS chapter  
16 725 and the administrative rules in the office, who  
17 was unaware of the requirement to make and maintain  
18 account records, and who was unaware of the law  
19 concerning refunding unearned interest to borrowers.  
20 This person obtained copies of the statutes and rules  
21 during the examination, and promptly contacted the  
22 software vendor concerning calculating refunds.

23 **CONCLUSIONS OF LAW**

24 The Director **CONCLUDES** that:

25 1. The Respondent made short term loans to applicants without  
26 demonstrating that it had formed a good faith belief that the

1 applicant had the ability to repay the loan in violation of  
2 OAR 441-730-0270(1)(g).

3 2. The Respondent failed to preserve and maintain books and  
4 records of loans made for at least two years in violation of  
5 ORS 725.330, OAR 441-730-0120 and OAR 441-730-0240(4).

6 3. The Respondent breached a duty toward borrowers by failing  
7 to clearly and distinctly show on loan documents the amount of  
8 loans made in violation of ORS 725.360(1)(b).

9 4. The Respondent breached a duty toward borrowers by failing  
10 to clearly and distinctly show on loan documents the  
11 consideration to be charged for the actual amount of the loan  
12 in violation of ORS 725.360(1)(c).

13 5. The Respondent failed to retain notes indelibly marked  
14 "paid" or "renewed" in the borrower's file in violation of ORS  
15 725.360(4), OAR 441-730-0270(1)(o) and OAR 441-730-0270(1)(p).

16 6. The Respondent failed to properly credit borrowers with a  
17 refund of unearned interest on loans paid before maturity in  
18 violation of OAR 441-730-0310.

19 7. Prior to December 15, 2003, the Respondent failed to post  
20 prominently the Annual Percentage Rate inside the Respondent's  
21 office where customers could easily see it, in violation of  
22 OAR 441-730-0270(1)(d).

23 8. The Respondent placed in charge of the licensed office a  
24 person who did not have a thorough understanding of ORS  
25 chapter 725 and the related administrative rules in violation  
26 of OAR 441-730-0080.



ORDER

The Director **ORDERS** that:

1. Respondent shall **CEASE AND DESIST** from violations of ORS chapter 725 and OAR chapter 441, division 730.

2. Respondent is assessed a **CIVIL PENALTY** in the amount of Fifteen Thousand Dollars (\$15,000), \$7,500 due upon execution of this Order and Seven Thousand Five Hundred Dollars (\$7,500)

**SUSPENDED** indefinitely upon the following **CONDITIONS**:

a. Respondent shall comply with all requirements of this Order;

b. Respondent and all its employees shall comply with all provisions of ORS chapter 725 and OAR chapter 441, division 730;

c. No later than ~~45~~ <sup>90</sup> days from the date the Director signs this Order, the Respondent shall compute and return to borrowers any amounts due them as unearned interest on loans paid before maturity; and

d. Within ~~75~~ <sup>90</sup> days from the date the Director signs this Order, the Respondent must make a report to the Director of borrowers identified, refunds paid, and attempts to locate borrowers who have not received the refund due.

The entire suspended portion of the Civil Penalty shall become immediately due and payable upon a violation of any Condition described above.

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1 Dated this 5th day of January, 2004 at Salem, Oregon.

2 **CORY STREISINGER, DIRECTOR**  
3 **DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

4  
5 by   
6 **FLOYD G. LANTER, ADMINISTRATOR**  
7 **DIVISION OF FINANCE AND CORPORATE SECURITIES**

8 **CONSENT TO ENTRY OF ORDER**

9 I, Richard L. Allen, state that I am the President of WILLOW  
10 CANYON CO LLC abn CHECK EXPRESS, and I am authorized to act on  
11 its behalf; that I have read the foregoing Order and that I  
12 know and fully understand the contents thereof; that WILLOW  
13 CANYON CO LLC abn CHECK EXPRESS has been advised of its right  
14 to be represented by counsel in this matter; that WILLOW  
15 CANYON CO LLC abn CHECK EXPRESS has been advised of its right  
16 to a hearing; that WILLOW CANYON CO LLC abn CHECK EXPRESS  
17 admits the Findings of Fact contained herein and voluntarily  
18 consents to the entry of this Order without further hearing,  
19 expressly waiving any right to a hearing in this matter; that  
20 WILLOW CANYON CO LLC abn CHECK EXPRESS understands that the  
21 Director reserves the right to take further actions to enforce  
22 this Order or to take appropriate action upon discovery of  
23 other violations of the Oregon Consumer Finance Law; and that  
24 WILLOW CANYON CO LLC abn CHECK EXPRESS will fully comply with  
25 the Oregon Consumer Finance Law and related regulations.

26 I understand that this Order is a public document.



1 Dated this 5 day of January, 2004.

2 

3  
4 Richard L. Allen, President

5 **CORPORATE ACKNOWLEDGMENT**

6 State of Oregon

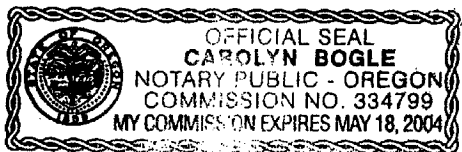
7 County of T Jefferson

8 This instrument was acknowledged before me on this 5  
9 day of January, 2004 by Richard L. Allen as President of

10 WILLOW CANYON CO LLC abn CHECK EXPRESS.

11 

12  
13 (notary seal)



14 State of Oregon  
15 County of Marion  
16 Subscribed and sworn to (or affirmed) before me  
17 on this 5th day of Jan., 2004.  
18 Notary Public Carolyn Bogle  
19 My commission expires 5-18-04

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