

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

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UNITED STATES BANKRUPTCY COURT
ALBUQUERQUE, NM

In re:

FURR'S SUPERMARKETS, INC.,

Case No. 7-01-10779-SA

Chapter 7

Debtor.

**FIRST FEE APPLICATION OF LINDA L. AIKIN,
AS ATTORNEY FOR THE CHAPTER 7 TRUSTEE**

Linda L. Aikin ("Aikin"), special counsel for Yvette J. Gonzales, the Chapter 7 Trustee in the above-captioned bankruptcy case, (the "Trustee"), submits this first application for allowance and payment of compensation, pursuant to Bankruptcy Code §§330, 331 and 503(b)(2), for work done from March 27, 2002 through August 31, 2002 (the "Application Period"). In support of this fee application Aikin states:

1. First Fee Application. The Debtor Furr's Supermarkets, Inc. (the "Debtor") filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code on February 8, 2001 (the "Petition Date"). On December 19, 2001 (the "Conversion Date"), the Debtor converted the case to a Chapter 7 case, and the Trustee was appointed. By Order Approving Trustee's Motion To Retain Certain Professionals Retained, Or Sought To Be Retained, By The Debtor In Possession (the "Retention Order") filed March 29, 2002, the Trustee retained Aikin to represent her. The Retention Order resulted from a Motion to Retain Certain Professionals Retained, Or Sought to Be Retained, By The Debtor In Possession filed January 11, 2002. This is the first fee application filed by Aikin in this case in Aikin's capacity as the Trustee's counsel. Aikin seeks allowance of compensation for the Application Period.

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2. Amount of Fees, Costs, and Applicable Gross Receipts Tax. For the Application Period, Aikin seeks allowance of compensation for services rendered by Aikin to the Trustee, plus costs and applicable gross receipts tax on fees and costs, in the amount of \$3,115.90, consisting of \$3,022.29 for professional fees and gross receipts tax thereon, and \$93.61 for reimbursable costs and expenses and gross receipts tax thereon. As of September 19, 2002, Aikin had received \$2567.42 for services, costs, and gross receipts taxes, leaving an unpaid balance of \$548.48. Total fees, costs, and gross receipts taxes Aikin

hereto. The billing rates, number of hours charged, and amount of fees that Aikin billed the Trustee for each attorney or legal assistant during the Application Period are summarized on Exhibit B hereto.

the Court in the order approving the Trustee's retention of Aikin. Aikin, in accordance with its customary billing practices, also charged for costs and expenses, including \$.10 per page for in-house photocopying and actual out-of-pocket expenses for other expenses such as postage, long distance telephone, and overnight mail. Aikin did not charge for hand deliveries, secretarial work, or filing documents with the Clerk of the Court.

5. Services Rendered During the Application Period were Actual and Necessary; Fees Charged are Reasonable. During the Application Period, Aikin represented the Trustee in this case. The amount charged for fees is reasonable based on the nature, extent, and value of the services and the amount of time spent providing the services. The services rendered were actual and necessary.

6. General Description of Services Rendered. As more fully set forth in the attached Billing Statements, in general the services Aikin rendered for the Trustee during the Application Period have included, among other things:

- (a) Assisting in the transfer of liquor licenses;
- (b) Assisting in liquor license renewals, including meetings with the deputy director of the Alcohol and Gaming Division about items needed from trustee
- (c) Revising and commenting upon liquor license purchase agreements
- (d) Obtaining tax clearances from the New Mexico Taxation and Revenue Department
- (e) Advice on citation notices.
- (f) Assistance in liquor license suspensions.

7. Other Factors. Aikin also supports this Application with a discussion of various other factors, as follows:

(a) Expertise and experience in the area of liquor licensing

Linda L. Aikin has substantial experience representing clients in liquor licensing matters, including government agencies, municipalities, the tax department, liquor wholesalers and courts. Prior to the bankruptcy, Aikin represented Furr's Supermarkets, Inc. in handling their liquor license matters.

(b) Method used to compute time charges. Aikin and her assistant

billed their time in 15-minute increments with no billing for short phone calls or other services of 5 minutes or less.

(c) Billing rates. Aikin charged the estate its hourly rates in effect

on the Conversion Date. Aikin's billing rates charged to the estate are less, and often substantially less, than the Court-approved rates for other professionals retained under Code §327 that performed substantial work in this case prior to conversion.

(d) Method used for determining hours to be actually billed for

services and for making billing adjustments. Aikin and her assistant kept daily time records in the ordinary course of business, from which Aikin prepared the Billing Statements. Draft bills were adjusted downward from time to time before being rendered, based on perceived inefficiencies or for other reasons. No time was billed for preparing, reviewing or adjusting bills.

(e) Results Achieved and Benefit to the Estate. During the

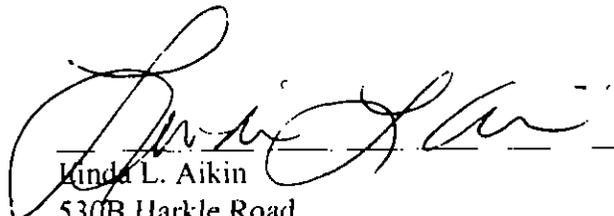
Application Period, the Trustee and Aikin worked to review purchase agreements for the

sale of liquor licenses and facilitate liquor license transfers at the New Mexico Regulation and Licensing Department, Alcohol and Gaming Division. Aikin also assisted liquor license renewals and suspensions necessary to assure that the licenses were in good standing. Aikin has worked with the Tax Department to obtain tax clearances as transfers of licenses are completed.

8. Services Rendered Solely for the Trustee; No Fee Sharing Arrangement. Aikin performed all professional services for which Aikin seeks allowance and payment of compensation for the Trustee, and not on behalf of any creditor or any committee or other person. Aikin has not shared or agreed to share any compensation received or to be received by it for services rendered in or in connection with this case with any person except with employees of Aikin in the ordinary course of business.

9. Certification of Review by the Trustee. Aikin hereby certifies that the Trustee has received, reviewed, and approved this Fee Application.

WHEREFORE, Aikin respectfully requests that the Court allow compensation to Aikin for the Application Period, as a priority, administrative expense, of \$3,115.90, consisting of \$3,022.29 for professional fees and gross receipts tax thereon, and \$93.61 for reimbursable costs, expenses, and gross receipts tax thereon, and authorize the Trustee to pay to Aikin the unpaid balance of the allowed compensation in the amount of \$548.48.


Linda L. Aikin
530B Harkle Road
Santa Fe, New Mexico 87505
(505) 982-6224

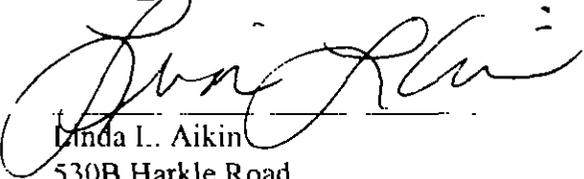
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Fee Application was mailed to:

United States Trustee
P.O. Box 608
Albuquerque, New Mexico 87103

Robert H. Jacobvitz
David T. Thuma
500 Marquette N.W., Suite 500
Albuquerque, New Mexico 87102

this ^{24th} day of September, 2002.


Linda L. Aikin
530B Harkle Road
Santa Fe, New Mexico 87505
(505) 982-6224

Bill Date	Fees	Costs	Gross Receipts Tax	Total
3/29/02	72.50	-0-	4.67	77.17
5/1/02	362.50	16.31	23.66	402.47
5/31/02	617.50	18.30	40.93	676.73
6/28/02	780.00	39.90	50.77	870.67
7/31/02	507.50	.20	32.68	540.38
8/30/02	<u>499.50</u>	<u>15.80</u>	<u>33.18</u>	<u>548.48</u>
TOTALS	\$ 2,839.50	\$ 90.51	\$185.89	\$ 3,115.90

EXHIBIT A

	Rate	Hours	Fee Amount
Linda L. Aikin	\$145.00	18.35	\$ 2,660.75
Glenna Carinci	\$ 55.00	3.25	\$ 178.75

EXHIBIT B

EXHIBIT C

LINDA L. AIKIN
530 B Harkle Road
Santa Fe NM 87505
505-982-6224
Fed ID #05-0398935

March 29, 2002

Furr's Supermarkets, Inc.
c/o Robert H. Jacobvitz, Esq.
Jacobvitz, Thuma & Walker, P.C.
500 Marquette, NW, #650
Albuquerque NM 87102

5005.01

In Reference To: General Liquor License Matters

Professional services

	<u>Hours</u>	<u>Amount</u>
3/27/02 Confer with Bob Jacobvitz concerning renwals	0.25	36.25
3/28/02 Confer with Bob Jacobvitz and obtain duplicate renewal and confer regarding sales of remaining licenses	0.25	36.25
For professional services rendered	0.50	\$72.50
Total taxes		\$4.67
Total amount of this bill		\$77.17
Balance due		\$77.17

LINDA L. AIKIN
530 B Harkle Road
Santa Fe NM 87505
505-982-6224
Fed ID #05-0398935

May 1, 2002
5005.01

Furr's Supermarkets, Inc.
c/o Robert H. Jacobvitz, Esq.
Jacobvitz, Thuma & Walker, P.C.
500 Marquette, NW, #650
Albuquerque NM 87102

In Reference To: General Liquor License Matters

Professional services

		<u>Hours</u>	<u>Amount</u>
4/4/02	Confer with hearing officer, deputy director, and Bob Jacobvitz concerning status of preliminary approval of Allsups applications	0.50	72.50
4/5/02	Confer with Bob Jacobvitz concerning status of sale of licenses to Hil Davidson and to Allsups	0.25	36.25
4/8/02	Confer with Allsup's lawyer and with Bob Jacobvitz concerning zoning issue when location is within 500 feet of residential and what constitutes a school	0.50	72.50
4/10/02	Confer with Bob Jacobvitz concerning offers to buy licenses from Allsups and from Hil Davidson	0.50	72.50

Furr's Supermarkets, Inc.

In Reference To: General Liquor License Matters

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	<u>Hours</u>	<u>Amount</u>
4/17/02 Read offer to Hil Davidson; confer with Bob Jacobvitz concerning status of negotiations to sell remainder of licenses and Town and Country preliminary approvals	0.50	72.50
4/22/02 Meeting with deputy director concerning status of preliminary approval	0.25	36.25
For professional services rendered	2.50	\$362.50
Additional charges:		
3/28/02- FedEx License 581 renewal forms to Mr. Jacobvitz		11.31
4/30/02- Long distance charges		5.00
Total costs		\$16.31
Total taxes		\$23.66
Total amount of this bill		\$402.47
Previous balance		\$77.17
Balance due		\$479.64

LINDA L. AIKIN
530 B Harkle Road
Santa Fe NM 87505
505-982-6224
Fed ID #05-0398935

May 31, 2002
5005.01

Furr's Supermarkets, Inc.
c/o Robert H. Jacobvitz, Esq.
Jacobvitz, Thuma & Walker, P.C.
500 Marquette, NW, #650
Albuquerque NM 87102

In Reference To: General Liquor License Matters

Professional services

		<u>Hours</u>	<u>Amount</u>
5/6/02	Review notes on renewals from Lillian Martinez	0.25	36.25
5/20/02	Confer with Lillian Martinez concerning renewal issues	0.25	36.25
5/21/02	Review and revise agreement to sell to Davidson; confer with Bob Jacobvitz concerning wholesaler who is owed on Farmington licenses; confer with Alcohol & Gaming Division on status of suspension approval for Clovis license	1.25	181.25
5/22/02	Fax suspension notice for License 996 to Ms. Novis; Draft letter sending suspension notice to Mr. Jacobvitz	0.25	13.75
	Meeting with Lillian Martinez concerning form of server lists	0.25	36.25

Furr's Supermarkets, Inc.

In Reference To: General Liquor License Matters

Page 2

	<u>Hours</u>	<u>Amount</u>
5/23/02 Obtain copies of server lists from last year's renewals at Alcohol & Gaming Division	0.25	36.25
5/24/02 Determine status of remaining licenses transfers; begin preparation of tax clearance request forms for remaining transfers	1.75	96.25
Confer with Bob Jacobvitz office concerning tax clearance request forms; confer with Town & Country concerning status of transfers	0.50	72.50
5/28/02 Revise tax clearances based on information received from Town & Country; draft letters and submit clearances and copies of agreements to Tax Department	0.75	108.75
For professional services rendered	5.50	\$617.50
Additional charges:		
5/31/02- Copying cost		10.30
- Fax charges		3.00
- Long distance charges		5.00
Total costs		\$18.30
Total taxes		\$40.93
Total amount of this bill		\$676.73
Previous balance		\$479.64
Balance due		\$1,156.37

LINDA L. AIKIN
530 B Harkle Road
Santa Fe NM 87505
505-982-6224
Fed ID #85-0398935

June 28, 2002
5005.01

Furr's Supermarkets, Inc.
c/o Robert H. Jacobvitz, Esq.
Jacobvitz, Thuma & Walker, P.C.
500 Marquette, NW, #650
Albuquerque NM 87102

In Reference To: General Liquor License Matters

Professional services

		<u>Hours</u>	<u>Amount</u>
6/3/02	Confer with Bob Jacobvitz concerning status of sales and tax clearances; obtain tax clearances for Town & Country transfers from Tax Department and send to Bob Jacobvitz	0.50	72.50
6/6/02	Prepare tax clearance request forms for remaining transfer	1.00	55.00
	Review tax clearance requests to be submitted to Tax Department	0.50	72.50
6/17/02	Confer with client concerning issues for renewals	0.25	36.25
6/19/02	Confer with BATF concerning special tax; confer with Las Cruces, Farmington, Albuquerque, and Ruidoso concerning fact that city tax will not be paid until license transfers	0.75	108.75

Furr's Supermarkets, Inc.

In Reference To: General Liquor License Matters

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	<u>Hours</u>	<u>Amount</u>
6/20/02 Confer with Bob Jacobvitz concerning city and BARF renewals, fingerprints and server lists	0.50	72.50
6/24/02 Submit tax and wholesaler clearances for Town & Country to Alcohol & Gaming Division and follow up with phone calls to hearing officer and deputy director at Alcohol & Gaming Division; messages for City of Albuquerque concerning city tax on renewed licenses	1.00	145.00
6/25/02 Confer with Bob Jacobvitz concerning renewal issues and fingerprints	0.25	36.25
6/26/02 Confer with Yvette Gonzales concerning fingerprints and social security number; confer with Yvette Gonzales' office concerning more renewals that have arrived; message for Lillian Martinez on renewals	0.50	72.50
6/27/02 Confer with client concerning renewals and Town & Country licenses	0.50	72.50
6/28/02 Confer with Lillian Martinez and Alvin New concerning issuance of licenses	0.25	36.25
For professional services rendered	6.00	\$780.00
Additional charges:		
6/25/02- Money order for Yvette Gonzales fingerprints		31.20
6/30/02- Fax charges		2.00
- Copying cost		3.70

Furr's Supermarkets, Inc.

In Reference To: General Liquor License Matters

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	<u>Amount</u>
6/30/02- Long distance charges	3.00
Total costs	\$39.90
Total taxes	\$50.77
Total amount of this bill	\$870.67
Previous balance	\$1,156.37
Balance due	\$2,027.04

LINDA L. AIKIN
530 B Harkle Road
Santa Fe NM 87505
505-982-6224
Fed ID #85-0398935

July 31, 2002
5005.01

Furr's Supermarkets, Inc.
c/o Robert H. Jacobvitz, Esq.
Jacobvitz, Thuma & Walker, P.C.
500 Marquette, NW, #650
Albuquerque NM 87102

In Reference To: General Liquor License Matters

Professional services

		<u>Hours</u>	<u>Amount</u>
7/1/02	Confer with Town & Country concerning issuance of licenses on June 28; e-mails to and from Albuquerque treasurer's office on city fees; confer with Bob Jacobvitz concerning sale of most of remaining licenses and City of Albuquerque annual tax on use of license	0.75	108.75
7/2/02	Review agreement with Hil Davidson; confer with Bob Jacobvitz concerning city treasurer's office comment that there will be no late fee; call to Lillian Martinez concerning renewals	0.75	108.75
7/3/02	Confer with Lillian Martinez concerning status of renewals	0.25	36.25
7/8/02	Confer with two people at Alcohol & Gaming Division concerning renewals	0.50	72.50

Furr's Supermarkets, Inc.

In Reference To: General Liquor License Matters

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	<u>Hours</u>	<u>Amount</u>
7/9/02 Confer with Lillian Martinez concerning status of renewals and obtain a copy of the notice of appointment of trustee for Lillian	0.50	72.50
7/10/02 Confer with Bob Jacobvitz concerning renewals, fingerprints, and status of sale of licenses	0.25	36.25
7/16/02 Confer with Alcohol & Gaming Division and with client on status of renewals	0.25	36.25
7/19/02 Meeting with Lillian Martinez concerning status of renewals	0.25	36.25
For professional services rendered	3.50	\$507.50
Additional charges:		
7/31/02- Copying cost		0.20
Total costs		\$0.20
Total taxes		\$32.68
Total amount of this bill		\$540.38
Previous balance		\$2,027.04
Balance due		\$2,567.42

LINDA L. AIKIN
530 B Harkle Road
Santa Fe NM 87505
505-982-6224
Fed ID #85-0398935

August 30, 2002

Furr's Supermarkets, Inc.
c/o Robert H. Jacobvitz, Esq.
Jacobvitz, Thuma & Walker, P.C.
500 Marquette, NW, #650
Albuquerque NM 87102

5005.01

In Reference To: General Liquor License Matters

Professional services

		<u>Hours</u>	<u>Amount</u>
8/1/02	Confer with Alcohol & Gaming Division and Bob Jacobvitz concerning renewals; confer with Bob Jacobvitz concerning other licenses that are under contract or being sold; submit contract to Davidson to Tax Department to obtain tax clearances	0.50	72.50
8/5/02	Confer with Tax Department concerning hold that has been placed on tax clearances; confer with Bob Jacobvitz concerning tax department and possible reasons for tax department hold; confer with Bob Jacobvitz concerning list of licenses under contract and submission of suspensions; confer with tax department about information that Bob Jacobvitz provided; letter to Bob Jacobvitz concerning citation notice on license that was purchased by TLH	1.10	159.50

Furr's Supermarkets, Inc.

In Reference To: General Liquor License Matters

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	<u>Hours</u>	<u>Amount</u>
8/14/02 Draft letter to Taxation and Revenue Department regarding tax clearances on Licenses 187, 882, 4023 and 4047	0.25	13.75
Submit copies of purchase agreements to Tax Department to obtain clearances	0.25	36.25
8/15/02 Confer with Bob Jacobvitz concerning how long a transfer of a liquor license takes	0.25	36.25
8/21/02 Request information on license transfers to buyers from Fleming and from Furr's to Smith's and Raley's; set up meeting with hearing officer to discuss status of various license transfers	0.25	36.25
8/27/02 Meeting with Alcohol & Gaming Division to make sure that all licenses renewed and to go over any pending applications for which assistance of Furrs is needed	0.75	108.75
8/29/02 Confer with Ray Shollenbarger and Bob Jacobvitz concerning reason that Smiths licenses have not been transferred	0.25	36.25
For professional services rendered	3.60	\$499.50
Additional charges:		
8/30/02 - Copying cost		13.30
- Long distance charges		2.50
Total costs		\$15.80
Total taxes		\$33.13

Furr's Supermarkets, Inc.

In Reference To: General Liquor License Matters

Page 3

	<u>Amount</u>
Total amount of this bill	\$548.48
Previous balance	\$2,567.42
8/19/02- Payment - thank you	(\$2,567.42)
Balance due	\$548.48