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U.S. BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.,

Case No. 7-01-10779 SA

Chapter 7

Debtor.

**JOINDER OF CREDITOR, FLEMING COMPANIES, INC., IN TRUSTEE'S
MOTION FOR A DETERMINATION THAT THE STAY APPLIES
TO AN ADMINISTRATIVE PROCEEDING COMMENCED
BY THE UNITED STATES DEPARTMENT OF AGRICULTURE**

Fleming Companies, Inc. ("Fleming"), a creditor in this Chapter 7 bankruptcy case, joins in Furr's Supermarkets, Inc.'s ("Furr's") Motion for a Determination that the Stay Applies to an Administrative Proceeding Commenced by the United States Department of Agriculture (the "Motion") and also requests the Court to determine that the Administrative Proceeding, as defined in the Motion, was commenced in violation of the automatic stay, and that prosecution of the Administrative Proceeding will violate the stay further.

In support of this motion, Fleming incorporates by reference all factual statements and legal arguments contained in the Motion as if fully set forth herein. Fleming also submits the following:

1. Fleming has asserted a claim to property of the estate based largely on claims made by the United States Department of Agriculture ("USDA") related to the Administrative Proceeding. USDA has made an initial determination that Fleming is a "responsibly connected person" to Furr's by which USDA seeks to hold Fleming responsible for payments allegedly owed by Furr's for perishable commodities supplied by certain vendors. USDA also seeks other civil penalties under the Perishable Agricultural Commodities Act, 7 U.S.C. §§ 499, *et seq.* Fleming's claim to property of the estate is to be indemnified from an

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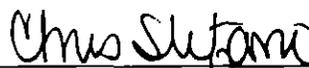
Escrow Fund established under Article XII of that certain Asset Purchase Agreement between Furr's and Fleming dated June 25, 2001 for any amounts it is ordered to pay which are related to the account which is the subject of USDA's Administrative Proceeding against Furr's. Fleming's claims against the Escrow Fund are for the unpaid debts, any civil penalties imposed under the act and other damages suffered by Fleming.

2. Pursuant to this Court's July 25, 2002 order, Metropolitan Life Insurance Company, Heller Financial, Inc., Fleet Capital Corporation and Bank of America, N.A. are the successors in interest to Furr's with regard to the Escrow Fund.

3. Fleming asks to participate in the hearings on the matters contained herein which are scheduled for October 29, 2002 at 10:00 a.m. and October 30, 2002 at 9:00 a.m. Fleming will not offer any witnesses or evidence at the hearing and wishes to participate in the hearing by telephone. For purposes of the hearing, Fleming's counsel may be reached at (405) 235-9621.

WHEREFORE, Fleming joins in the Trustee's Motion and seeks a determination that the stay applies to the Administrative Proceeding. Further, Fleming requests that it be permitted to participate in the hearing on the matters contained herein by telephone.

Respectfully submitted,



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ATTORNEYS FOR FLEMING COMPANIES,
INC.

CERTIFICATE OF SERVICE

This is to certify that on October 17, 2002, the foregoing was mailed, postage prepaid,
to:

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