

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

02 NOV 25 PM 3:50

In re:

FURR'S SUPERMARKETS, INC.

UNITED STATES BANKRUPTCY COURT
ALBUQUERQUE, N.M.

Case No. 7-01-10779 SA
Chapter 7

Debtor.

**MOTION TO APPROVE ORDER ON DAVIS & PIERCE, PC'S
ALLOCATION STATEMENT AND EXCLUDED FEE STATEMENTS
ENTERED PURSUANT TO ORDER ADOPTING CARVE-OUT PROCEDURES**

Heller Financial, Inc., on its on behalf and as agent for Bank of America, N.A. and Fleet Capital Corporation along with Metropolitan Life Insurance Company ("Lenders"), and move the Court for an order approving their settlement with Davis & Pierce, PC ("D&P") on the following terms & conditions (i) the unpaid claim of D&P for inclusion in the Pre-Closing Carve-Out shall be \$50,000, reduced from the \$67,284.08 claimed; (ii) the unpaid claim of D&P for inclusion in the Post-Closing Carve-Out shall be \$20,000, reduced from the \$32,811.96 claimed; and (iii) the amount of \$13,239.27 claimed as the Post-Conversion services shall not be included in any Carve-Out. The foregoing settlement terms are called the "Carve-Out Allocations."

In support of this Motion, Lenders state:

1. The settlement resolves issues relating to the carve-out for certain chapter 11 professionals, funded by the Lenders, which is set forth in a settlement between the Lenders and Chapter 7 Trustee that was approved by an order entered on the docket on July 26, 2002.

1953

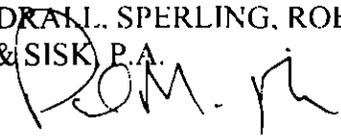
1. The settlement, as related to the Pre-Closing Carve-Out, compromises a dispute concerning the Excluded Fee amount for D&P. It has no economic effect on creditors, other than professionals participating in the Pre-Closing Carve-Out.

2. The settlement, as related to the Post-Closing Carve-Out and Post-Conversion services, reflects a reduction related to the amount D&P charged and was allowed in connection with seeking Court approval of compensation for services rendered during the Pre-Closing Carve Out Period.

3. The settlement is fair and equitable, and should be approved, given the uncertainty, the risks and expense of litigating the issues, and the benefits to be gained by the compromise.

WHEREFORE, Lenders request this Court to approve the Carve-Out Allocations as stated above.

MODRALL, SPERLING, ROEHL, HARRIS
& SISK P.A.

By: 

Paul M. Fish
Attorneys for
Post Office Box 2168
Bank of America Centre
500 Fourth Street NW, Suite 1000
Albuquerque, New Mexico 87103-2168
Telephone: 505.848.1800

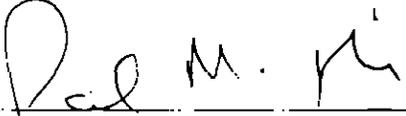
WE HEREBY CERTIFY that a true and correct copy of the foregoing pleading was mailed this 26th day of November, 2002 to the following:

William F. Davis
P.O. Box 6
Albuquerque, NM 87103

Robert Jacobvitz
Jacobvitz, Thuma & Walker
500 Marquette NW, Suite 650
Albuquerque, NM 87102

Office of the U.S. Trustee
P.O. Box 608
Albuquerque, NM 87103

MODRALL, SPERLING, ROEHL, HARRIS
& SISK, P.A.

By: 
Paul M. Fish

266917.doc