

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.,

Case No. 7-01-10779-SA

Chapter 7

Debtor.

**ORDER APPROVING SETTLEMENT OF ADVERSARY PROCEEDINGS 02-01090 AND 02-1194, AND UNASSERTED CLAIM**

THIS MATTER came before the Court on the Chapter 7 Trustee's Motion to Approve Settlement of Adversary Proceedings 02-01090 and 02-1194, and Unasserted Claim, filed on October 18, 2002 (doc. #1902) (the "Motion"). Having reviewed the Motion, and being otherwise advised in the matter, The Court FINDS:

A. On February 8, 2001 (the "Petition Date"), Furr's Supermarkets, Inc. (the "Debtor") filed a voluntary petition in this Court under Chapter 11 of the Bankruptcy Code. On December 19, 2001, this Court entered an order converting the chapter 11 case to a case under chapter 7.

B. On December 19, 2001, the United States Trustee appointed Yvette Gonzales as the Trustee for the Debtor's bankruptcy estate, in which capacity she continues to serve.

C. The Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding under 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

D. In the preference adversary proceeding brought by the Trustee (Adv. Pro. No. 02-01090) (the "Preference Adversary Proceeding"), the Trustee sought to recover \$121,216.22 from Nestle, plus all other amounts, if any, recoverable pursuant to 11 U.S.C. §

547.

E. Nestle has offered to pay the Trustee \$103,033.79 in full satisfaction of any and all claims asserted in the Preference Adversary Proceeding (the "Preference Settlement").

The Preference Settlement is fair and equitable, and is in the best interests of and beneficial to the Debtor's estate and the creditors.

F. In the pre-paid adversary proceeding brought by the Trustee (Adv. Pro. No. 02-01194) (the "Pre-Paid Adversary Proceeding"), the Trustee sought to recover \$103,915.37 from Nestle, plus all other amounts, if any, recoverable.

G. Nestle has offered to pay the Trustee \$25,406.46 in full satisfaction of any and all claims asserted in the Pre-Paid Adversary Proceeding (the "Pre-Paid Settlement"). The Pre-Paid Settlement is fair and equitable, and in the best interests of and beneficial to the Debtor's estate and the creditors. The amount of the Pre-Paid Settlement is based primarily on the fact that Nestle has demonstrated to the Trustee that it paid the estate \$79,240.76 on account of the estate's pre-paid account receivable on or about November 28, 2001.

H. Nestle has offered to pay the Trustee \$20,500 in full satisfaction of a post-petition account receivable claim (the "Post-Petition A/R Settlement"), which is the amount of the Post-Petition A/R Claim. The Post-Petition A/R Settlement is fair and equitable, and in the best interests of and beneficial to the Debtor's estate and the creditors.

I. The Settlement and Release Agreement. If the proposed settlements are approved, the parties would execute a settlement and release agreement memorializing the terms of their settlement.

J. On October 18, 2002, notice of the Motion (doc. #1903) (the "Notice") was

mailed by first class United States mail, postage prepaid, to all persons on the limited mailing matrix maintained in the bankruptcy case, a copy of which was attached to the original of the Notice filed with the Clerk of the Bankruptcy Court, as shown by the certificate of service on the Notice filed with the Court;

G. The Notice provided for a deadline to object to the Motion of November 12, 2002, which was 20 days after the date of mailing of the Notice, plus three days for mailing, for a total of 23 days;

H. The Notice was sufficient and appropriate in the particular circumstances;

I. The deadline to object to the Motion has expired, and no objections to the Motion were filed;

J. The requirements of the Bankruptcy Code and Rules, including Rule 9019, have been satisfied with respect to the relief granted by this Order;

K. The proposed settlement is fair and equitable, and in the best interests of and beneficial to the Debtor's estate and the creditors; and,

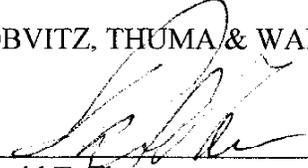
L. Entry of this Order, without further notice or hearing, is appropriate.

THE COURT THEREFORE ORDERS that the Motion is approved. Nestle shall pay the Trustee the Preference Settlement, the Pre-Paid Settlement, and the Post-Petition A/R Settlement, the parties shall execute a settlement and release agreement memorializing the settlement, and the adversary proceedings described above shall be dismissed with prejudice.

  
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JAMES S. STARZYŃSKI  
United States Bankruptcy Judge

APPROVED:

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I hereby certify that a true and correct copy  
of the foregoing was either electronically  
transmitted, faxed, delivered or mailed to  
the listed counsel and parties on:

JAN 07 2003

Mary B. Anderson