

COPY
UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

FILED

In re:

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FURR'S SUPERMARKETS, INC.,

U.S. BANKRUPTCY COURT
ALBUQUERQUE, NM
Case No. 7-01-10779-SA
Chapter 7

Debtor.

**MOTION TO APPROVE SETTLEMENT OF PREFERENCE CLAIM AGAINST
PINKERTON SECURITY**

Yvette G. Gonzales, the Chapter 7 Trustee (the "Trustee"), by counsel, pursuant to F. R. Bankr. P. 9019, moves the Court for an order approving the settlement of the estate's preference claim against Pinkerton Security, and in support hereof states:

1. Commencement and Conversion of Case. 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.

2. Appointment of Chapter 7 Trustee. 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.

3. Jurisdiction And Venue. The Court has jurisdiction over this 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.

4. The Preferential Transfer Claim. The Trustee has asserted a preference claim against Pinkerton Security for approximately \$63, 152, subject to any applicable defenses such as the new value defense.

5. The Settlement of the Preference Claim. Pinkerton Security has offered to pay the Trustee \$34,000 in full satisfaction of the preference claim (the "Settlement"). In

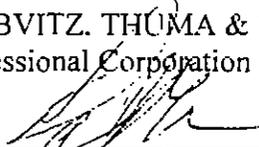
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consideration of the Settlement, upon the entry of a final non-appealable order granting this Motion and approving the Settlement, the Trustee would release any and all estate claims against Pinkerton Security under 11 U.S.C. §547.

6. The Settlement is Reasonable. The Settlement is fair and equitable, and is in the best interests of and beneficial to the Debtor's estate and the creditors. The amount of the settlement, which is more than 50% of the gross preference amount, is reasonable in light of Pinkerton Security's potential new value defense.

WHEREFORE, the Trustee requests that the Court enter an order approving the Preference Settlement and for all other just and proper relief.

JACOBVITZ, THUMA & WALKER
a Professional Corporation

By: 

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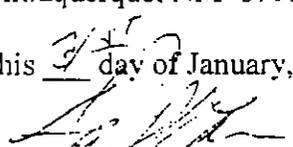
This certifies that a copy of the foregoing Motion was served by mail on:

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Jennie D. Behles
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this 3rd day of January, 2003.


David T. Thuma