

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
12:00 MIDNIGHT

IN RE:

CASE NO. 11-01-10779-SA

MAR 17 2003

FURR'S SUPERMARKETS, INC.,

DEBTOR.

DROP BOX
United States Bankruptcy Court
Albuquerque, New Mexico

NOTICE OF MOTION BY SUCON, INC. d/b/a SUITT
CONTRACTORS FOR RELIEF FROM AUTOMATIC STAY

TO: **United States Trustee, All Counsel of Record, All Creditors, and All Other Parties Entitled to Receive Notice**

EACH OF YOU ARE HEREBY NOTIFIED that A Motion for Relief from Automatic Stay has been filed by the Creditor, Sucon, Inc. on March 17, 2003. The Motion seeks an Order granting relief for the automatic stay to allow it to pursue its monetary claims against the Debtor in the pending state court case. Suito is a contractor hired to provide labor and materials to Debtor for improvements to a store located in Bernalillo, New Mexico. Suito billed Debtor and demanded payment in the amount of \$73,356.60, however Debtor has failed to pay. On January 23, 2001 Suito recorded a mechanic's/materialman's lien upon the above referenced real property. The property in which the lien was recorded was owned by Broadway Vista Partners located in California. On March 12, 2003 Suito filed an Amended Complaint in Second Judicial District Court to enforce and foreclose on its lien styled *Sucon v. Broadway Vista Partners et. al.*, Case No. CV-2003-00557. The Debtor's Bankruptcy Estate was named as a Defendant party as it is an indispensable party to the action, but presently there is not an action against estate property or the Debtor. Debtor wishes to amend its State Court Complaint to pursue its causes of action against Debtor, since such causes of action would properly be pursued in the same litigation. Suito requests the automatic stay to be lifted to allowed it to amend its Complaint in the State Court Case and to pursue its monetary claims.

A copy of the Motion for Relief from Automatic Stay is available for inspection and copying at the office of the Clerk of the United States Bankruptcy Court, at 421 Gold Avenue SW, Third Floor, Albuquerque, NM 87103 or at the office of Debtor's Counsel, Puccini & Meagle, P.A., Attn: Shay E. Meagle at PO Box 30707, Albuquerque, New Mexico 87190.

In the event that you have any objection to this Motion for Relief from Automatic Stay, all objections shall be in writing specifically setting forth the nature of the objection and shall be filed on or before the deadline **WITHIN 20 DAYS OF THE DATE OF THE MAILING OF THIS NOTICE**. All objections must be in writing, specifically stating the nature of the objection and filed with the Clerk of the United States Bankruptcy Court, at 421 Gold Avenue S.W., Third Floor, Albuquerque, NM 87103, with a copy going to counsel for the Debtor, Puccini & Meagle, P.A., Attn: Shay E. Meagle, at PO Box 30707, Albuquerque, New Mexico 87190-0707, telephone (505) 255-0202, fax (505) 255-8726. In the event there are no objections timely filed, the parties reserve the right to submit an Order to the Court approving the Motion for Relief from Automatic Stay.

In the event that any objections are timely filed, all such objections will come on for hearing before the Honorable James S. Starzynski, Judge of United States Bankruptcy Court at the United States Bankruptcy Court, 421 Gold Avenue S.W., Second Floor, Albuquerque, New Mexico 87103, with Notice going only to those parties who filed a timely written objection.

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PUCCHINI & MEAGLE, P.A.

By: Shay E. Meagle

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing pleading was sent on this 17th day of March, 2003 via First Class U.S. Mail to the following:

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By: Angelique LeBeau
Angelique LeBeau
Legal Assistant