

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re:
FURR'S SUPERMARKETS, INC.,
Debtor.

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

**MOTION TO APPROVE SETTLEMENT AND COMPROMISE OF
THE DEFAULT JUDGMENTS ENTERED IN
ADVERSARY PROCEEDINGS NOS. 02-1204 S AND 02-1191 S**

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 and compromise of the default judgment entered in Adversary Proceeding No. 02-1204 S in favor of the Trustee and against Clougherty Packing Company (the "Clougherty Packing Judgment") and of the default judgment entered in Adversary Proceeding No. 02-1191 S in favor of the Trustee and against Arizona Meat Products a/k/a Clougherty Packing Company of Arizona (the "Arizona Meat Judgment"), 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.

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4. The Clougherty Packing Judgment. Trustee filed a Complaint To Recover Open Account Prepayments initiating Adversary Proceeding No. 02-1204 S on August 13, 2002. On January 3, 2003, the Court entered the Clougherty Packing Judgment in the amount of \$194,828.39, including interest and attorneys fees accrued through December 20, 2002, plus interest as it accrued thereafter at the rate of fifteen percent per annum. Subsequent informal settlement discussions resulted in the settlement described herein.

5. The Arizona Meat Judgment. Trustee filed a Complaint To Recover Open Account Prepayments initiating Adversary Proceeding No. 02-1191 S on August 13, 2002. On January 5, 2003, the Court entered the Arizona Meat Judgment in the amount of \$37,235.14, including interest and attorneys fees accrued through December 20, 2002, plus interest as it accrued thereafter at the rate of fifteen percent per annum. Subsequent informal settlement discussions resulted in the settlement described herein.

6. The Settlement of the Judgments. Subject to Court approval, the Trustee and the judgment debtors have agreed that Clougherty Packing Company will pay to the Trustee the amount of \$174,047.65 (the "Settlement Amount") within fifteen (15) days of entry of an order approving the settlement in full satisfaction of the Clougherty Packing Judgment and the Arizona Meat Judgment. Following receipt of the Settlement Amount, Trustee will file with the Court satisfactions of the judgments. The proposed settlement is fair and equitable, and is in the best interests of and beneficial to the Debtor's estate and the creditors.

WHEREFORE, the Trustee requests that the Court enter an order approving the settlement described herein and for all other just and proper relief.

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This certifies that a copy of the
foregoing Motion was served on April 1, 2003
by postage prepaid United States mail to:

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