

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.,

Case No. 7-01-10779-SA
Chapter 7

Debtor.

**ORDER RESULTING FROM SECOND INTERIM FEE APPLICATION BY
JACOBVITZ, THUMA & WALKER P.C., ATTORNEYS FOR THE TRUSTEE**

This matter came before the Court upon the Second Fee Application by Jacobvitz, Thuma & Walker, P.C., attorneys for the Trustee ("Second Fee Application"), filed March 19, 2003 and entered on the docket as no 2056. The Second Fee Application is for services rendered from July 1, 2002 through February 28, 2003 (the "Second Application Period").

JTW represents that its calculations reflect that the compensation approved by this order includes (i) \$40,235.26 for which the estate bears the entire cost, (ii) \$23,689.04 for which the estate bears none of the cost pursuant to the terms of the Stipulation and Consent Order (I) Approving Compromise and Settlement Between the Trustee on Behalf of the Estate, Heller Financial, Inc., Bank of America, N.A., Fleet Capital Corporation and Metropolitan Life Insurance Company and (II) Resolving All Objections Thereto, filed July 25, 2002 (the "Settlement Agreement") (such fees relate to work performed in connection with a certain PACA issue, the

El Paso Distribution Center, a dispute with Heller Leasing Co., certain disgorgement claims, and a dispute with Pinnacle Logistics, Inc. relating to an escrow account); (iii) \$152,599.68 for which the estate in effect ultimately bears 1/3 of the cost until the chapter 11 debtor in possession loan (the "DIP Loan") is repaid in full, such compensation being paid as a cost of collection from proceeds resulting from the Trustee's assertion of avoidance action claims, and with respect to which, under the Settlement Agreement, the estate receives 1/3 and Heller Financial, Inc., Bank of America, N.A., Fleet Capital Corporation and Metropolitan Life Insurance Company (together the "Secured Lenders") receive 2/3 of the balance remaining after payment of the costs of collection (and after payment into a reserve for Trustee fees, and further subject to the estate receiving all net proceeds if and after the DIP Loan is repaid in full after application of the \$2 million credit specified in the Settlement Agreement); (iv) \$91,250.76 for which the estate in effect ultimately bears 10% of the cost, such compensation being paid as a cost of collection from proceeds resulting from the Trustee's sale of land and equipment and liquor licenses, and collection of prepaid deposits and accounts receivable, and with respect to which, under the Settlement Agreement, the estate receives 10% and the Secured Lenders

receive 90% of the balance remaining after payment of the costs of collection (and after payment into a reserve for Trustee fees); and (v) \$1,921.56 for which the estate in effect ultimately bears 21.7% of the cost, such compensation being paid from the proceeds of a loan from the Secured Lenders to the Trustee, and with respect to which, under the Settlement Agreement, the estate bears approximately 21.7% of the cost of repayment of such loan.

The Court, being sufficiently advised, FINDS:

A. On March 19, 2003, notice (the "Notice") was given of the Second Fee Application, specifying a period of twenty (20) days (plus 3 days based on service of the notice by mail, for a total of 23 days) to object thereto, in accordance with the Bankruptcy Code and Bankruptcy Rules 2002(a)(6) and 9006(f), to all persons on the official limited mailing list maintained by the Clerk of the Bankruptcy Court in connection with this case. The Notice, which was filed on March 19, 2003 and docketed as no. 2057, was sufficient.

B. The objection deadline specified in the Notice expired on April 11, 2003, with no objections to the Second Fee Application having been filed;

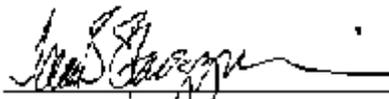
C. The Second Fee Application complies with the requirements of Bankruptcy Rule 2016 and the local rules;

D. By an order entered September 9, 2002 (No. 1832 on the Docket) the Court approved compensation (including fees, costs, and applicable gross receipts tax) resulting from JTW's first interim fee application for services rendered to the Trustee in the amount of \$164,758.03.

E. The compensation sought in the Second Fee Application in the amount of \$309,696.30, consisting of \$261,698 for professional fees, \$31,891.43 for reimbursable costs and expenses, and \$16,106.87 for gross receipts tax, for the Second Application Period is reasonable compensation for actual and necessary services that benefited the estate, and should be allowed; and

F. Entry of this order is appropriate under Bankruptcy Code §§330(a), 331, 503(b)(2) and 507(a)(1).

IT IS, THEREFORE, ORDERED that for the Second Application Period, JTW is allowed, as a priority, administrative expense under Bankruptcy Code §§503(b)(2) and 507(a)(1), compensation in the amount of \$309,696.30, consisting of \$261,698 for professional fees, \$31,891.43 for reimbursable costs and expenses, and \$16,106.87 for gross receipts tax, which compensation is approved. The Trustee is authorized to pay to JTW the unpaid balance of the approved compensation from unencumbered funds of the estate or as otherwise authorized by the Settlement Agreement.



THE HONORABLE JAMES S. STARZYNSKI
UNITED STATES BANKRUPTCY JUDGE

SUBMITTED BY:

JACOBVITZ, THUMA & WALKER, P.C.

By submitted by e-mail

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Attorneys for Yvette J. Gonzales, Chapter 7 Trustee

APPROVED:

MARY E. MAY

United States Trustee

By: Approved by telephone 5-14-03

Ronald E. Andazola

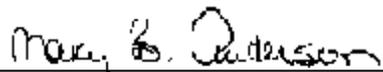
Assistant U.S. Trustee

P.O. Box 608

Albuquerque, NM 87103

(505) 248-6549/(505) 248-6558 (fax)

I hereby certify that on May 16, 2003, a true and correct copy of the foregoing was either electronically transmitted, faxed, delivered, or mailed to the listed counsel and parties.



Mary B. Anderson