

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

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U.S. BANKRUPTCY COURT  
ALBUQUERQUE, NM

In re:

FURR'S SUPERMARKETS, INC.,

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

Debtor.

**SECOND INTERIM FEE APPLICATION OF MEYERS + COMPANY, LLC,  
TAX ACCOUNTANTS FOR THE DEBTOR IN POSSESSION**

Meyers + Company, LLC ("MCO"), tax accountants for Furr's Supermarkets, Inc., (the "Debtor"), submits this application for allowance and payment of compensation pursuant to Bankruptcy Code §§330, 331 and 503(b)(2) for work done from January 22, 2002 through September 30, 2002 (the "Second Application Period"). In support of this fee application MCO states:

1. Second Fee Application. The Debtor filed its voluntary petition for relief under Chapter 11 of the Bankruptcy Code on February 8, 2001 (the "Petition Date"), and converted to a Chapter 7 on December 19, 2001. This is the second fee application filed by MCO in this bankruptcy case. MCO seeks compensation for the Second Application Period.

2. Amount of Fees, Costs, and Applicable Gross Receipts Tax. For the Second Application Period, MCO seeks allowance of compensation for services rendered by MCO for the Estate, plus costs and applicable gross receipts tax on fees and costs, in the amount of \$3,930.33, consisting of professional fees and gross receipts tax thereon. As of March 14, 2003, MCO had received payment from the Estate of \$12,062.70 for services, costs, and gross receipts taxes, leaving an unpaid balance, after application of a

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credit set forth in the order approving the Trustee's retention of MCO, of \$3,930.33. Total fees, and costs MCO charged the Estate each month during the Second Application Period are summarized on Exhibit A hereto. The billing rates, number of hours charged, and amount of fees that MCO billed the Estate for each accountant during the Second Application Period are summarized on Exhibit B hereto.

3. Billing Statements; Itemization and Description of Services Rendered.

The monthly billing statements MCO rendered to the Estate for services rendered during the Second Application Period are attached hereto as Exhibit C (together, the "Billing Statements"). The Billing Statements itemize all charges for professional services and gross receipts tax; set forth the hourly rates for each accountant employed by MCO who rendered services to the Estate; separately describe the services rendered and hours worked by each individual each day for each item of work during the Second Application Period, in one-tenth-of-an-hour increments; and, at the end of the Billing Statements, summarize the total hours and total charges per individual. The accounting of services and costs as set out in the Billing Statements is true and correct to the best of MCO's knowledge, information, and belief.

4. Customary Billing Rates and Other Charges. During the Second Application Period, the billing rates MCO charged for accountants were charged at the accountants' normal and customary billing rates in effect when MCO commenced its representation of the Chapter 11 Debtor, capped at \$200 per hour.

5. Debtor' Employment of MCO. On October 10, 2001, the Debtor filed its application to employ MCO as its tax accountants. Effective as of October 10, 2001 (docket #1205), the Court entered the Order Approving Employment of Mcyners + Company, LLC as Tax Accountants For Debtor (the "MCO Employment Order").

approving the Debtor' employment of MCO effective as of the Petition Date. The Debtor retained MCO to prepare Federal and State Income Tax Returns for tax years 2000, 2001 and 2002. Pursuant to the MCO Employment Order, the Debtor was authorized to pay MCO's billing statements, prior to the Court's determination of the allowability of MCO's compensation, up to and including 75% of fees, and up and including to 100% of reimbursable costs and applicable gross receipts tax, subject to ultimate approval of the paid compensation. The Chapter 7 Trustee continued the employment of MCO pursuant to Court Order of March 29, 2002, Docket # 1616.

6. Services Rendered During the Second Application Period were Actual and Necessary; Fees Charged are Reasonable. During the Second Application Period MCO represented the Debtor as tax accountants in this case. The amount charged for fees is reasonable based on the nature, extent, and value of the services and the amount of time spent providing the services. The services rendered were actual and necessary.

7. General Description of Services Rendered. As more fully set forth in the attached Billing Statements, in general the services MCO rendered for the Debtor during the Second Application Period have included: Completion of Federal and State Income Tax Returns for Tax Year 2001.

8. Other Factors. MCO also supports this Second Application with a discussion of various other factors, as follows:

(a) Billing rates. MCO charged the estate its hourly rates in effect on October 10, 2001. MCO agreed to cap the hourly rates of its accounting professionals at \$200 per hour.

(b) Method used for determining hours to be actually billed for services and for making billing adjustments. MCO accountants kept daily time

records in the ordinary course of business, from which MCO prepared the Billing Statements.

(c). One of MCO's accountants was the Debtor's former employee in charge of Federal and State Tax Filings. It would be more efficient for MCO to prepare Federal and State Income Tax Returns than anyone else.

9. Services Rendered Solely for the Debtor; No Fee Sharing Arrangement.

MCO performed all professional services for which MCO seeks allowance and payment of compensation for the Estate, and not on behalf of any creditor or any committee or other person. MCO has not shared or agreed to share any compensation received or to be received by it for services rendered in or in connection with this case with any person except with employees of MCO in the ordinary course of business.

10. Certification of Review by the Trustee. MCO hereby certifies that the Trustee has received, reviewed and approved this Second Fee Application.

WHEREFORE, MCO respectfully requests that the Court allow compensation to MCO for the Second Application Period, as a priority, administrative expense, of \$3,930.33 consisting of professional fees and gross receipts tax thereon, and authorize the Trustee to pay to MCO the unpaid balance of the allowed compensation.

MEYNER + COMPANY, LLC

By: 

Ben Darwin  
500 Marquette N.W., Suite 400  
Albuquerque, New Mexico 87102  
(505) 222-3520  
(505) 842-1568 (fax)  
Tax Accountants for the Debtor

I hereby certify that a copy of  
the foregoing Fee Application  
was mailed to:

United States Trustee  
P.O. Box 608  
Albuquerque, New Mexico 87103

Jacobvitz, Thuma & Walker  
500 Marquette N.W., Suite 500  
Albuquerque, NM 87102

Yvette J. Gonzales  
Chapter 7 Bankruptcy Trustee  
P.O. Box 1037  
Placitas, NM 87043

William F. Davis  
P.O. Box 6  
Albuquerque, New Mexico 87103

Paul M. Fish  
Modrall Law Firm  
P.O. Box 2168  
Albuquerque, New Mexico 87102

Jennic D. Behles  
P.O. Box 849  
Albuquerque, New Mexico 87103

this 10th day of June, 2003.

  
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## EXHIBIT B

The following summarizes the billing rates, number of hours billed, and amount billed by each accountant and administrative personnel employed by Furr's Supermarkets, Inc., for the Second Application Period.

Accountant/Administrative	Billing Rate	Hours Billed	Amount Billed
Stephen P. Gomeau, JD, CBA	200	3.1	\$620.00
Stephen P. Gomeau, JD, CBA	195	1	\$195.00
Bruce Malout, CPA, CFP, CVA, DABFA	200	0	\$0.00
Ben Darwin, CPA	200	11.6	\$2,320.00
Ken Majerus, CPA	180	1.75	\$315.00
Ken Majerus, CPA	185.03	0.5	\$92.52
Lisa Flores, CPA	100	14.25	\$1,425.00
Lisa Flores, CPA	105	92.64	\$9,727.20
Administrative - Deborah Taylor	0.2	0.5	\$13.00
Administrative - Martha Holt	2	75	\$150.00
Subtotal			\$14,857.72
Gross Receipts Tax			\$93.59
Total			\$15,721.31

## FEE APPLICATION

<u>Name</u>	<u>Title</u>	<u>Rate</u>	<u>Hours</u>	<u>Total</u>
Stephen P. Comeau, JD. CBA	Litigation & Valuation Services Manager	195.00	1.00	195.00
Stephen P. Comeau, JD. CBA	Litigation & Valuation Services Director	200.00	3.10	620.00
Ben L. Darwin, CPA	Principal, Tax Services	200.00	11.60	2,320.00
Ken Majerus, CPA	Tax Manager	180.00	1.75	315.00
Ken Majerus, CPA	Tax Manager	185.03	.50	92.52
Lisa Flores, CPA	Tax Senior	100.00	14.25	1,425.00
Lisa Flores, CPA	Tax Senior	105.00	92.64	9,727.20
Martha Holt	Administrative	75.00	2.00	150.00
Deborah Taylor	Administrative	65.00	.20	13.00
Total Fees Incurred				14,857.72
Gross Receipts Tax (5.8125%)				863.61
Subtotal				15,721.32
Less: 25% of Fees (Retainage)				3,930.33
Subtotal				<u>11,790.99</u>

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Furr's Supermarkets, Inc.

VA2877-00\Billing\101102.xls\Sheet1

ClientId	StaffId	Date	ControlDate	Hour(s)	Amount	Cost	Comment
2877-00	BLD	1/22/2002	1/22/2002	0.50	\$100.00	\$0.00	Telephone calls to Thuma
							Meeting to discuss admin & filing requirements for
2877-00	BLD	4/18/2002	4/18/2002	0.10	\$20.00	\$0.00	2001
2877-00	BLD	6/4/2002	6/4/2002	1.00	\$200.00	\$0.00	Review 2002 tax compliance
2877-00	BLD	7/15/2002	7/15/2002	1.00	\$200.00	\$0.00	Review letter to trustee re: document request
2877-00	BLD	8/1/2002	8/1/2002	1.00	\$200.00	\$0.00	Meeting to discuss contract and planning of work
2877-00	BLD	9/7/2002	9/7/2002	4.00	\$800.00	\$0.00	Review Form 1120
2877-00	BLD	9/9/2002	9/9/2002	1.50	\$300.00	\$0.00	Review return
2877-00	BLD	9/9/2002	9/9/2002	2.50	\$500.00	\$0.00	Review return/clear pts
	<b>BLD Total</b>			<b>\$11.60</b>	<b>\$2,320.00</b>	<b>\$0.00</b>	
2877-00	DMT	3/6/2002	3/6/2002	0.20	\$13.00	\$0.00	typed, labeled and sent out letter
2877-00	KJM	4/13/2002	4/13/2002	0.25	\$45.00	\$0.00	With LAF and BLD re: NOI, cfwd, 1099s
							Meet with Lisa Flores and call amy Garcia re: NOI, carryback, 2001 corporate, 1099 notices, sale
2877-00	KJM	5/10/2002	5/10/2002	1.00	\$180.00	\$0.00	allocation accounting, etc
2877-00	KJM	5/14/2002	5/14/2002	0.50	\$90.00	\$0.00	With LAF - FC to Dave Thuma
2877-00	KJM	7/15/2002	7/15/2002	0.25	\$46.26	\$0.00	review letter - PBC
2877-00	KJM	3/6/2002	3/6/2002	0.25	\$46.26	\$0.00	update with LAF
	<b>KJM Total</b>			<b>\$2.25</b>	<b>\$407.52</b>	<b>\$0.00</b>	
2877-00	LAF	1/22/2002	1/22/2002	1.50	\$150.00	\$0.00	Call trustee, meet with Ben
2877-00	LAF	2/18/2002	2/18/2002	1.00	\$100.00	\$0.00	Prepare extensions for fa & s & b
2877-00	LAF	2/25/2002	2/25/2002	0.25	\$25.00	\$0.00	TX Franchise Extension
2877-00	LAF	2/27/2002	2/27/2002	0.25	\$25.00	\$0.00	Phone conversation with bankruptcy trustee
							Prepare email to bankruptcy trustee regarding amendment to IIR 3090 and possible of/claim as a result, 2002 possible es pm requirements, and yr
2877-00	LAF	3/20/2002	3/20/2002	1.00	\$100.00	\$0.00	2001 purchase price accounting
							phone conversations with david thuma regarding
2877-00	LAF	3/6/2002	3/6/2002	0.50	\$50.00	\$0.00	amt tax es pm due if 2002 income realized
							Meeting regarding IRS Notice and NOI, Carryback
2877-00	LAF	4/18/2002	4/18/2002	0.25	\$25.00	\$0.00	Claim
							Phone conference with bankruptcy attorney and
2877-00	LAF	5/10/2002	5/10/2002	1.75	\$175.00	\$0.00	KJM: scheduling job
2877-00	LAF	5/14/2002	5/14/2002	0.25	\$25.00	\$0.00	Meet with KJM conference call David Thuma
2877-00	LAF	5/21/2002	5/21/2002	4.50	\$450.00	\$0.00	File Fee Application
2877-00	LAF	5/22/2002	5/22/2002	0.50	\$50.00	\$0.00	Fee Application
							Make changes to Fee Application as suggested by David Thuma and send to bankruptcy trustee for
2877-00	LAF	6/11/2002	6/11/2002	1.00	\$100.00	\$0.00	approval
							Fee Application changes and phone calls to
2877-00	LAF	6/17/2002	6/17/2002	1.00	\$100.00	\$0.00	Bankruptcy Trustee for approval
2877-00	LAF	6/3/2002	6/3/2002	0.50	\$50.00	\$0.00	Fee Application
2877-00	LAF	7/10/2002	7/10/2002	3.00	\$315.00	\$0.00	Review Files and complete missing information list
2877-00	LAF	7/30/2002	7/30/2002	0.25	\$26.25	\$0.00	Call Bankruptcy Attorney
							Meet with BLD and KJM, phone conference with SC
2877-00	LAF	8/1/2002	8/1/2002	1.50	\$157.50	\$0.00	and Bob Jacobvitz
2877-00	LAF	8/12/2002	8/12/2002	8.00	\$840.00	\$0.00	Prepare tax wps
							Calculate Purchase Price allocation, prepare tax
2877-00	LAF	8/13/2002	8/13/2002	7.50	\$787.50	\$0.00	workpapers
2877-00	LAF	8/14/2002	8/14/2002	2.75	\$288.75	\$0.00	Tax Depreciation
2877-00	LAF	8/15/2002	8/15/2002	0.25	\$26.25	\$0.00	Tax Depreciation: Purchase price allocation
2877-00	LAF	8/19/2002	8/19/2002	2.50	\$262.50	\$0.00	Prepare workpapers for 2001 tax returns
2877-00	LAF	8/20/2002	8/20/2002	1.75	\$183.75	\$0.00	Prepare workpapers for 2001 tax returns
2877-00	LAF	8/21/2002	8/21/2002	4.75	\$498.75	\$0.00	Prepare workpapers for 2001 tax returns
2877-00	LAF	8/22/2002	8/22/2002	6.75	\$708.75	\$0.00	Prepare workpapers for 2001 tax returns
2877-00	LAF	8/26/2002	8/26/2002	6.50	\$682.50	\$0.00	Prepare workpapers for 2001 tax returns

EXHIBIT C

Furrs Supermarkets, Inc.

V 2877-00ABilling: 101102.xls:Sheet1

ClientId	StaffId	Date	ControlDate	Hours	Amount	Cost	Comment
2877-00	LAF	8/28/2002	8/28/2002	8.00	\$840.00	\$0.00	Prepare workpapers for 2001 tax returns
2877-00	LAF	8/29/2002	8/29/2002	8.00	\$840.00	\$0.00	Prepare workpapers for 2001 tax returns
2877-00	LAF	8/5/2002	8/5/2002	2.25	\$236.25	\$0.00	Review Bankruptcy filing requirements
2877-00	LAF	8/5/2002	8/5/2002	5.39	\$565.95	\$0.00	Prepare 2001 tax return
2877-00	LAF	8/6/2002	8/6/2002	4.25	\$446.25	\$0.00	Prepare 2001 tax return
2877-00	LAF	8/7/2002	8/7/2002	0.75	\$78.75	\$0.00	Prepare 2001 tax return
2877-00	LAF	8/8/2002	8/8/2002	6.25	\$656.25	\$0.00	Prepare 2001 tax return
2877-00	LAF	9/10/2002	9/10/2002	2.00	\$210.00	\$0.00	Clear Points
							Prepare 505 (b) Letter, run additional copies of original return to accompany letters and draft
2877-00	LAF	9/11/2002	9/11/2002	3.75	\$393.75	\$0.00	appropriate instructions
2877-00	LAF	9/12/2002	9/12/2002	0.25	\$26.25	\$0.00	Meet with Yvette Gonzales
2877-00	LAF	9/3/2002	9/3/2002	0.50	\$52.50	\$0.00	Prepare 2001 tax return
2877-00	LAF	9/9/2002	9/9/2002	5.75	\$603.75	\$0.00	Clear Points
	<b>LAF Total</b>			<b>106.89</b>	<b>\$11,152.20</b>	<b>\$0.00</b>	
2877-00	MRH	2/19/2002	2/19/2002	0.25	\$18.75	\$0.00	Process extension.
2877-00	MRH	2/26/2002	2/26/2002	0.25	\$18.75	\$0.00	Process extensions
2877-00	MRH	7/15/2002	7/15/2002	0.50	\$37.50	\$0.00	Process correspondence
2877-00	MRH	9/10/2002	9/10/2002	0.50	\$37.50	\$0.00	Process tax returns.
2877-00	MRH	9/12/2002	9/12/2002	0.50	\$37.50	\$0.00	Process additional copies of tax return.
	<b>MRH Total</b>			<b>\$2.00</b>	<b>\$150.00</b>	<b>\$0.00</b>	
2877-00	SPC	1/24/2002	1/24/2002	1.00	\$195.00	\$0.00	Telephone conference with Mr. Thuma, revise Order of Appointment and create Exhibit A.
							Review motion re payment of professionals from carve-out amounts; conference with Ben Darwin; call
2877-00	SPC	7/16/2002	7/16/2002	0.50	\$100.00	\$0.00	to Mr. Thuma.
2877-00	SPC	7/17/2002	7/17/2002	0.20	\$40.00	\$0.00	Call from Mr. Thuma re carve-out motion
							Telephone conference with Mr. Jacobvitz re carve-out procedure, outstanding pay application and
2877-00	SPC	8/1/2002	8/1/2002	0.60	\$120.00	\$0.00	information of complete 2001 tax returns.
							Review limited objection to carve-out; conference with Ben Darwin and Lase Flores; call to Mr
2877-00	SPC	8/1/2002	8/1/2002	0.40	\$80.00	\$0.00	Jacobvitz.
2877-00	SPC	8/5/2002	8/5/2002	1.00	\$200.00	\$0.00	Draft court order granting pay application
							Call to Judges office re order, letter to judge enclosing
2877-00	SPC	8/5/2002	8/5/2002	0.40	\$80.00	\$0.00	order.
	<b>SPC Total</b>			<b>4.10</b>	<b>\$815.00</b>	<b>\$0.00</b>	
	<b>Total- Services Rendered</b>			<b>127.0</b>	<b>\$14,857.72</b>	<b>\$0.00</b>	
2877-00	OFF	2/28/2002	2/28/2002	0.00	\$13.00	\$13.00	Postage
2877-00	OFF	6/30/2002	6/30/2002	0.00	\$169.62	\$169.62	Copies Original Fee Application
2877-00	OFF	7/31/2002	7/31/2002	0.00	\$2.00	\$2.00	Postage
2877-00	OFF	8/31/2002	8/31/2002	0.00	\$1.00	\$1.00	Postage
2877-00	OFF	9/30/2002	9/30/2002	0.00	\$21.16	\$21.16	1 to Metrolink Courier to Placitas
2877-00	OFF	9/30/2002	9/30/2002	0.00	\$50.00	\$50.00	Tax Preparation
	<b>Total-Costs</b>			<b>0.00</b>	<b>\$256.78</b>	<b>\$256.78</b>	
	<b>Grand Total</b>			<b>127.0</b>	<b>\$15,114.50</b>	<b>\$256.78</b>	

EXP-2-1