

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.,

Case No. 7-01-10779-SA

Chapter 7

Debtor.

**ORDER APPROVING SETTLEMENT OF  
ADVERSARY PROCEEDING 02-1188 S**

THIS MATTER came before the Court on the *Motion to Approve Settlement of Adversary Proceeding 02-1188 S* (the "Motion") (docket #2124) by Yvette J. Gonzales, Chapter 7 Trustee ("Trustee"), by counsel. Having reviewed the Motion, being otherwise advised in the matter, and based upon the stipulation of the parties, THE COURT FINDS:

A. On February 8, 2001, Furr's Supermarkets, Inc. (the "Debtor") filed a voluntary petition in this Court under Chapter 11 of the Bankruptcy Code. On December 19, 2001, the chapter 11 case was converted to a case under chapter 7. On the same day Yvette Gonzales was appointed the Trustee for the Debtor's bankruptcy estate, in which capacity she continues to serve.

B. The Court has jurisdiction over the subject matter herein under 28 U.S.C. §1334, and has jurisdiction over the parties. This matter is a core proceeding under 28 U.S.C. §157(b)(2). Venue is proper in this Court under 28 U.S.C. §1409.

C. In Adversary Proceeding No. 02-1188 S (the "Adversary Proceeding"), the Trustee alleged that H. J. Heinz Company (the "Defendant") owed certain amounts to the estate for excess post-petition prepayments and on account arising post-petition. The Trustee and the Defendant have agreed, subject to Court approval, that the Defendant will pay the Trustee \$77,888.34 (the "Settlement Amount") within fifteen (15) days of entry of an order approving the settlement in full satisfaction of any and all claims asserted in the Adversary Proceeding. Thereafter, the Adversary Proceeding shall be dismissed with prejudice.

D. The Motion was filed on June 18, 2003. On June 27, 2003, notice of the Motion (the "Notice") (doc. #2132) was mailed by first class United States mail, postage prepaid, to all persons on the limited mailing matrix maintained in the bankruptcy case, a copy of which was attached to the original of the Notice filed with the Clerk of the Bankruptcy Court, as shown by the certificate of service on the Notice filed with the Court.

E. The Notice provided for a deadline to object to the Motion of July 21, 2003, which was 23 days after the date of mailing of the Notice. The Notice was sufficient and appropriate in the particular circumstances.

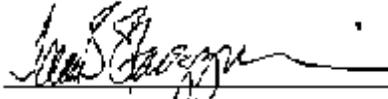
F. The deadline to object to the Motion has expired,

and no timely objections to the Motion were filed.

G. The requirements of the Bankruptcy Code and Rules, including Rule 9019, have been satisfied with respect to the relief granted by this Order. The proposed settlement is fair and equitable, and in the best interests of and beneficial to the Debtor's estate and the creditors.

H. Entry of this Order, without further notice or hearing, is appropriate.

THE COURT ORDERS that the Motion is approved. Defendant shall pay the Trustee the Settlement Amount as described above, and the Adversary Proceeding shall be dismissed with prejudice.



JAMES S. STARZYNSKI  
United States Bankruptcy Judge

APPROVED:

JACOBVITZ, THUMA & WALKER, P.C.

By s/ submitted by e-mail 7/22/03

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H.J. HEINZ COMPANY

By Approved by telephone June 18, 2003

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I hereby certify that on July 23, 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  
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