

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.,

Debtor.

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

2003 SEP -8 PM 3:55

U.S. BANKRUPTCY COURT
ALBUQUERQUE, N.M.

**MOTION TO APPROVE SETTLEMENT OF
ADVERSARY PROCEEDING 02-1111-S**

Yvette Gonzales, the Chapter 7 Trustee (the "Trustee"), by counsel, moves the Court for an order approving the settlement of all claims against S.C. Johnson & Son, Inc., including without limitation the preferential transfer claims the estate has against S.C. Johnson & Son, Inc. as set forth in the adversary proceeding No. 02-1111-S, captioned *Yvette J. Gonzales, Trustee v. S.C. Johnson & Son, Inc.* (the "Adversary Proceeding"), pursuant to F.R.Bankr.P.9019, and STATES:

1. **Commencement and Conversion of Case.** On February 8, 2001, (the "Petition Date"), 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.

4. **The Adversary Proceeding.** In the Adversary Proceeding, the Trustee initially sought to recover Eighty Two Thousand Three Hundred Seventy Three Dollars and 25/100

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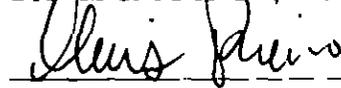
(\$82,373.25) from S.C. Johnson & Son, Inc., plus all other amounts, if any, recoverable pursuant to 11 U.S.C. §547. The Trustee recalculated the claim and determined that the amount sought by the Plaintiff increased by \$38,454.09 for a total of \$120,827.43.

5. **The Settlement.** S.C. Johnson & Son, Inc. has offered to pay the Trustee One Hundred Two Thousand Seven Hundred Three and 32/100 Dollars (\$102,703.32) in full satisfaction of any and all pre-petition claims which the parties have against each other (the "Settlement"). The Trustee has informed S.C. Johnson & Son, Inc. that she has a claim for post-petition overpayments or for post-petition incentives such as, without limitation, volume discounts, "bill backs," advertising money, special promotion discounts, cash discounts, and rebates. The Settlement is without prejudice to such post-petition claims. The Trustee expressly reserves all such post-petition claims, and S.C. Johnson & Son, Inc. expressly reserves all of its defenses to such claims.

6. The Settlement is fair and equitable, and 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 and for such other relief as may be just.

DAVIS & PIERCE, P.C.



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I hereby certify that a true and correct copy of the foregoing was served on counsel and parties as indicated below this 8th day of September, 2003.

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