

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 No. 02-1199 S
(*Gonzales v. The Dannon Company*)**

THIS MATTER came before the Court on the *Motion to Approve Settlement of Adversary Proceeding No. 1199 S* (the "Motion") (docket #2147) 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. 02-1199 S (the "Adversary Proceeding"), the Trustee alleged that The Dannon Company (the "Defendant") owed certain amounts to the estate for excess post-petition prepayments. The Trustee and the Defendant agreed, subject to Court approval, that the Defendant will pay the Trustee \$27,500.00 (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 July 21, 2003. On July 22, 2003, notice of the Motion (the "Notice") (doc. #2153) 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 August 14, 2003, which was 23 days after the date of mailing of the Notice. The Notice was sufficient and appropriate in the particular circumstances.

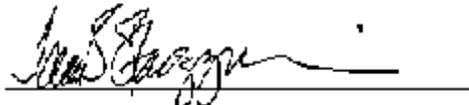
F. The deadline to object to the Motion has expired,

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 9/05/03

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Attorneys for Defendant

I hereby certify that on September 10, 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