

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 ADV. PROCEEDING 02-01103 S

THIS MATTER came before the Court on the Chapter 7 Trustee's Motion to Approve Settlement of Adversary Proceeding 02-01103 S (doc. #2167) (the "Motion"). Having reviewed the Motion, and being otherwise advised in the matter, 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 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;

C. In Adv. Pro. 02-01103 S (the "Preference Action"), the Trustee sought to recover \$547,274.46 from The Earthgrains Company (the "Preference Defendant"), plus all other amounts,

if any, recoverable under 11 U.S.C § 547. The Preference Defendant has offered to pay the Trustee \$475,000 in full satisfaction of any claims the Trustee or the Furr's Estate may have against the Preference Defendant under 11 U.S.C. §§544, 547, 548, 549, and/or §550, including but not limited to the claims that were made or raised in the Preference Action (the "Settlement Amount"). The parties shall execute a settlement and release agreement in the form attached hereto as Exhibit A (the "Settlement Agreement");

D. The terms of the settlement are fair and equitable, and are in the best interests of and beneficial to the Debtor's estate and the creditors;

E. On August 15, 2003, notice of the Motion (docket #2168) (the "Notice") was mailed by first class United States mail, postage prepaid, to all persons on the limited mailing matrix maintained in the bankruptcy case, as shown by the certificate of service on the Notice filed with the Court;

F. The Notice provided for a deadline to object to the Motion of September 8, 2003, which was 23 days after the date of mailing of the Notice. The Notice was sufficient and appropriate in the particular circumstances;

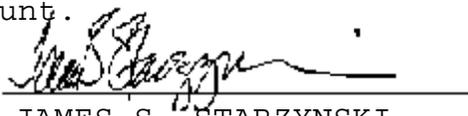
G. The deadline to object to the Motion has expired, and no objections to the Motion were filed;

H. 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; and

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

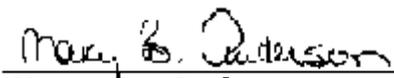
THE COURT THEREFORE ORDERS that the Motion and the terms of the attached Settlement Agreement are approved. Preference Defendant shall pay the Trustee the Settlement Amount, the parties shall execute the Settlement Agreement, the Preference Action shall be dismissed with prejudice, and the Preference Defendant may file an unsecured, nonpriority, prepetition claim for the Settlement Amount.



JAMES S. STARZYNSKI
United States Bankruptcy Judge

Submitted and approved:
JACOBVITZ, THUMA & WALKER, P.C.
By: Submitted by e-mail 9/26/03
David T. Thuma
500 Marquette N.W., Suite 650
Albuquerque, NM 87102
(505) 766-9272
Attorneys for the Plaintiff

I hereby certify that on September 30, 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

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (the "Agreement"), made this ___ day of August, 2003 by and between Yvette J. Gonzales (the "Plaintiff"), acting in her capacity as the duly appointed Chapter 7 Trustee of the Furr's Supermarkets, Inc. bankruptcy estate (the "Furr's Estate"), on the one hand, and Sara Lee Bakery Group, Inc., f/k/a The Earthgrains Company, Earthgrains Baking Companies, Inc., and Earthgrains Refrigerated Dough Products, L.P. (together, the "Defendant"), on the other, is intended to extinguish the claims and obligations set forth below.

WHEREAS on or about May 22, 2002, the Plaintiff filed her Complaint to Avoid Preferential Transfers against the Defendant in the case captioned *Yvette J. Gonzales, Trustee v. The Earthgrains Company*, in the United States Bankruptcy Court for the District of New Mexico, Adv. Pro. No. 02-01103 S (the "Avoidance Action");

WHEREAS the Plaintiff and the Defendant desire to settle the Avoidance Action and have agreed to execute this Agreement for such purpose and to extinguish the claims and obligations set forth below;

NOW THEREFORE, it is agreed between the Plaintiff and the Defendant as follows:

1. Upon payment of the settlement amount by Defendant, the Plaintiff will dismiss the Avoidance Action with prejudice.
2. Within ten business days after the order approving the Agreement becomes a final non-appealable order, the Defendant will pay the Plaintiff \$475,000, the receipt and sufficiency of which the Plaintiff hereby acknowledges.
3. The Plaintiff and the Defendant shall each bear their respective costs and

Exhibit A

attorneys' fees incurred in the Avoidance Action, and in connection with settlement of the Avoidance Action.

4. The Plaintiff, on her behalf and on behalf of the Furr's Estate, hereby voluntarily and knowingly releases and forever discharges the Defendant and its agents, officers, directors, employees, attorneys, and all of their respective successors, and assigns from any and all claims, demands, causes of action, costs, expenses, and requests for attorneys' fees, whether asserted or unasserted, with respect to any claims which the Plaintiff or the Furr's Estate may have against them as of the date hereof under 11 U.S.C. §§544, 547, 548, 549, and/or §550, including but not limited to the claims that were made or raised in the Avoidance Action.

5. The Defendant, on its behalf and on behalf of its affiliated companies, subsidiaries, and divisions, voluntarily and knowingly releases and forever discharges the Plaintiff, the Furr's Estate, and all of the Plaintiff's and/or the Furr's Estate's agents, officers, directors, employees, attorneys, successors, and assigns, from any and all claims, demands, actions, costs, expenses, and attorney fees (i) for reclamation of goods under the applicable Uniform Commercial Code, (ii) assertable or allowable under 11 U.S.C. §503(b), or (iii) assertable as a pre-petition unsecured claim; provided, however, that Defendant may file a proof of claim in the Furr's bankruptcy case for the amount paid in settlement, as an unsecured, nonpriority, prepetition claim.

6. As an inducement to the Trustee to release the Defendant, the Defendant represents to the Plaintiff that (i) the business of Sara Lee Bakery Group, Inc., f/k/a The Earthgrains Company, Earthgrains Baking Companies, Inc., and Earthgrains Refrigerated Dough Products, L.P. is limited to baking; and (ii) Plaintiff's release of the Defendant will not impact

any claims Plaintiff may have against Sara Lee's interests outside of baking (such as coffee, tea, meat, household products and apparel). Defendant acknowledges that the Plaintiff does not intend to release claims in any other adversary proceeding currently pending in the Furr's bankruptcy case, except for any adversary proceedings that name Defendant, if any.

7. The Plaintiff and the Defendant each acknowledge having had full opportunity to consult with counsel of their choice before executing this Agreement.

8. The Plaintiff and the Defendant warrant and represent to the other that no promise, inducement, or agreement not expressed herein has been offered, made, or relied on, and that this Agreement contains the entire agreement between the parties.

9. This Agreement is entered into under the laws of the State of New Mexico. Any dispute concerning this Agreement shall be brought before the United States Bankruptcy Court for the District of New Mexico.

10. The parties understand and agree this settlement is the compromise of doubtful and disputed claims, and the agreements and payments set forth herein are not to be construed as admissions of liability by any party, which liability is expressly denied.

IN WITNESS WHEREOF, the Plaintiff and the Defendant have executed this Agreement as of the date first written above.

Yvette J. Gonzales, in her capacity as
the Chapter 7 Trustee of the Furr's
Supermarkets, Inc. bankruptcy estate

SARA LEE BAKERY GROUP, INC.

By: _____
David B. Groce,

Vice President & Chief Counsel

EARTHGRAINS BAKING COMPANIES, INC.

By: _____
David B. Groce,
Vice President & Chief Counsel

EARTHGRAINS REFRIGERATED DOUGH PRODUCT, L.P.

By: _____
EGR Texas General Partner, Inc.

By: _____
David B. Groce,
Vice President & Chief Counsel