

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.,

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

Debtor.

MOTION TO APPROVE SETTLEMENT OF ADVERSARY PROCEEDING 02-01099

Yvette G. Gonzales, the Chapter 7 Trustee (the "Trustee"), by counsel, pursuant to F. R. Bankr. P. 9019, moves the Court for an order approving the settlement of the adversary proceeding No. 02-01099, captioned *Yvette J. Gonzales, Trustee v. Mosley Truck Brokerage, Inc.* (the "Preference Adversary Proceeding"), against Mosley Truck Brokerage, Inc. ("Mosley"), and in support hereof states:

1. Commencement and Conversion of Case. On February 8, 2001 (the "Petition Date"), Furr's Supermarkets, Inc. (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 Preference Adversary Proceeding. In the Preference Adversary Proceeding, the Trustee sought to recover \$139,135.51 from Mosley, plus all other amounts, if any, recoverable pursuant to 11 U.S.C § 547.

5. The Settlement of the Preference Adversary Proceeding. Mosley has offered to pay the Trustee \$90,000 within 15 days after entry of a bankruptcy court order approving the settlement in full satisfaction of any and all claims asserted in the Adversary Proceeding (the “Preference Settlement”). In consideration of the Preference Settlement, upon the entry of a final non-appealable order granting this Motion and approving the Preference Settlement, the Preference Adversary Proceeding will be dismissed with prejudice and the Trustee and Mosley will enter into a settlement agreement in the form attached hereto as Exhibit A.

6. The Preference Settlement is fair and equitable, and is in the best interests of and beneficial to the Debtor’s estate and the creditors. The settlement amount is based upon, inter alia, the difficulty Mosley would have paying more than \$90,000.

WHEREFORE, the Trustee requests that the Court enter an order approving the Preference Settlement and for all other just and proper relief.

JACOBVITZ, THUMA & WALKER
a Professional Corporation

By: s/Filed Electronically
David T. Thuma
500 Marquette NW, Suite 650
Albuquerque, NM 87102
(505) 766-9272
Attorneys for the Trustee

This certifies that a copy of the foregoing Motion was served by mail on:

Ronald E. Andazola
P.O. Box 608
Albuquerque, New Mexico 87103

Paul Fish
P.O. Box 2168
Albuquerque, NM 87103

Jennie D. Behles
P.O. Box 849
Albuquerque, NM 87103

this 7th day of October, 2003.

s/Filed Electronically
David T. Thuma