

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 03-1181

Yvette G. Gonzales, the Chapter 7 Trustee (the "Trustee"), by counsel, pursuant to F. R. Bankr. P. 9019, moves the Court to approve the settlement of adversary proceeding No. 03-1181 captioned *Yvette J. Gonzales, Trustee v. Unifirst Corp.* (the "Preference Action"), against Unifirst Corporation ("Preference Defendant"), 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. On that date the Trustee was appointed as the trustee for the Debtor's bankruptcy estate, in which capacity she continues to serve.

2. 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.

3. The Preference Action. In the Preference Action, the Trustee sought to recover \$49,818.29 from the Preference Defendant, plus all other amounts, if any, recoverable under 11 U.S.C § 547.

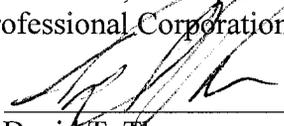
5. The Settlement of the Preference Action. Preference Defendant has offered to pay the Trustee \$7,000.00 in full satisfaction of any and all claims asserted in the Adversary Action (the "Preference Settlement"). In consideration of the Preference Settlement, upon the entry of a final non-appealable order granting this Motion and approving the Preference Settlement, the

Preference Action will be dismissed with prejudice and the Trustee will release any and all estate claims against Preference Defendant under 11 U.S.C. §547.

6. Preference Defendant provided new value to the estate in the amount of approximately \$38,000.00, leaving a net preference claim of approximately \$11,800. Preference Defendant also was able to demonstrate some prospect of prevailing on its ordinary course of business defense. The Preference Settlement therefore is fair and equitable, and is 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 Preference Settlement and for all other just and proper relief.

JACOBVITZ, THUMA & WALKER
a Professional Corporation

By: 

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

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this 15th day of October, 2003.

