

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 03-1017

THIS MATTER came before the Court on the Chapter 7 Trustee's Amended Motion to Approve Settlement of Adversary Proceeding 03-1017 (doc. #2161) (the "Amended Motion"). Having reviewed the Amended 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 (the "Trustee"), in which capacity she continues to serve.

B. The Court has jurisdiction over the Amended 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 the Preference Action, the Trustee sought to recover \$19,930.27 from Southwind, plus all other amounts, if any, recoverable under 11 U.S.C. § 547. After conducting additional accounting review, the Trustee determined that the net amount of her claim against Southwind was \$58,339.25.

D. Preference Defendant has offered to pay the Trustee \$49,588.36 in full satisfaction of any and all claims asserted or which could have been asserted in the Preference Adversary Proceeding (the "Settlement Amount").

E. The Settlement Amount is fair and equitable, and is in the best interests of and beneficial to the Debtor's estate and the creditors.

F. On September 11, 2003, notice of the Amended Motion (docket #2200) (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;

G. The adversary number was incorrect on the Notice, however the Notice referred to the proper preference Defendant and the proper settlement amount;

H. The Notice provided for a deadline to object to the Motion of October 6, 2003, which was 23 days after the

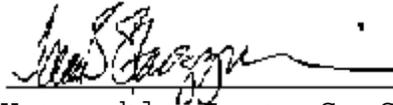
date of mailing of the Notice. The Notice was sufficient and appropriate in the particular circumstances;

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

J. 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,

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

THE COURT THEREFORE ORDERS that the Amended Motion is approved. Preference Defendant shall pay the Trustee the Settlement Amount, and the Preference Action shall be dismissed with prejudice.



Honorable James S. Starzynski
United States Bankruptcy Judge

Submitted and approved:
JACOBVITZ, THUMA & WALKER, P.C.

By: Submitted by e-mail

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Attorneys for the Plaintiff

I hereby certify that on October 27, 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
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