

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 No. 03-1180 M
(GONZALES V. BUYPASS)**

THIS MATTER came before the Court on the Chapter 7 Trustee's ("Trustee") Motion to Approve Settlement of Adversary Proceeding No. 03-1180 M, captioned *Yvette J. Gonzales, Trustee v. Buypass* (the "Motion") (docket #2206). 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 Chapter 7 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. No. 03-1180 M (the "Adversary Proceeding"), the Trustee sought to avoid \$77,180.98 from

Buypass, n/k/a Concord Payment Services, Inc. and/or Concord EFS, Inc. ("Defendant"), plus all other amounts, if any, avoidable pursuant to 11 U.S.C. § 547.

D. Defendant and Trustee have agreed, without admission or acknowledgment of liability by either side, and subject to Court approval after notice and opportunity to object, to settle the Adversary Proceeding pursuant to the Settlement Agreement attached to the Motion as Exhibit "A" (the "Settlement Agreement"). Pursuant to the Settlement Agreement, the Defendant shall pay to the Trustee \$22,300.00 (the "Settlement Amount") within (15) days of entry of this Order. Following the entry of this Order and receipt of the Settlement Amount, the Trustee will file a notice or stipulation of dismissal of the Adversary Proceeding with prejudice and will release all claims the Debtor's estate may have against the Defendant pursuant to Sections 547, 549 and 550 of the Bankruptcy Code. On September 24, 2003, notice of the Motion (the "Notice") (docket #2208) was mailed by first class United States mail, postage prepaid, to all persons on the limited mailing matrix maintained in the above captioned 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 October 17, 2003, which was 23 days after the date of mailing of the Notice. The Notice was sufficient and appropriate

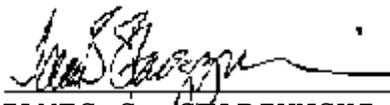
in the particular circumstances.

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

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

THE COURT THEREFORE ORDERS that the Motion and the Settlement Agreement are approved. Defendant shall pay the Trustee the Settlement Amount within fifteen (15) days following entry of this Order if no appeal is timely taken. Thereafter, Trustee will file a notice or stipulation of dismissal of the Adversary Proceeding with prejudice.



JAMES S. STARZYNSKI
United States Bankruptcy Judge

APPROVED:
JACOBVITZ, THUMA & WALKER, P.C.
By: s/ submitted by e-mail
Thomas D. Walker
500 Marquette N.W., Suite 650
Albuquerque, NM 87102
(505) 766-9272
(505) 766-9287 (fax)
Attorneys for the Trustee

BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ,
A Professional Corporation

By: Approved by telephone 9/23/03

E. Franklin Childress, Jr.

165 Madison Avenue

Suite 2000

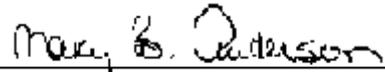
Memphis, TN 38103

(901) 577-2147

(901) 577-0845 (Facsimile)

Attorneys for Defendant

I hereby certify that on November 19, 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