

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.,  
Debtor.

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

**ORDER APPROVING SETTLEMENT OF ADV. PROCEEDING 03-1018**

THIS MATTER came before the Court on the Chapter 7 Trustee's Motion to Approve Settlement of Adversary Proceeding 02-1018 (doc. #2212) (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. No. 03-1018 (the "Preference Action"), the Trustee sought to recover \$32,906.77 from Statewide Products Co., Inc. (the "Preference Defendant"), plus all other amounts, if any, recoverable pursuant to 11 U.S.C. § 547;

D. In the settlement, Preference Defendant has agreed to

pay the Trustee \$27,970.75, payable in 11 monthly installments of \$2,000 per month, with the first payment due October 1, 2003, and a "balloon" payment of \$5,970.75 due October 1, 2004 (the "Preference Settlement"). A payment shall be in default if not paid by the 10<sup>th</sup> of the month when due. If the Preference Defendant defaults in any of its payments to the Trustee and fails to cure the default within 10 days after written notice of the default is given to the Preference Defendant's counsel of record in the Preference Action, then the Trustee may submit an affidavit of default with the Court and the Court shall enter a judgment against the Preference Defendant in the amount of \$32,906.77, plus interest at the rate of 8.75% per annum from October 1, 2003, less any payments made by the Preference Defendant to the Trustee. In consideration of the Preference Settlement, following payment in full of the Preference Settlement with no uncured default, the Preference Action will be dismissed with prejudice;

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

F. On September 26, 2003, notice of the Motion (docket #2215) (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;

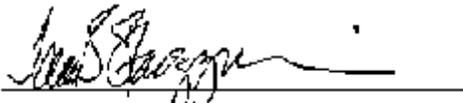
G. The Notice provided for a deadline to object to the Motion of October 20, 2003, which was 23 days after the date of mailing of the Notice. The Notice was sufficient and appropriate in the particular circumstances;

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

I. 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,

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

THE COURT THEREFORE ORDERS that the settlement of the Preference Action as set forth above is hereby approved in all respects.



JAMES S. STARZYNSKI  
United States Bankruptcy Judge

APPROVED:  
JACOBVITZ, THUMA & WALKER, P.C.  
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I hereby certify that on November 21, 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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