

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO**

In re:

FURR'S SUPERMARKETS, INC.,

Debtor.

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

**TRUSTEE'S MOTION TO APPROVE SETTLEMENT OF  
ADVERSARY PROCEEDING 02-1252-S  
(Topco Associates, Inc. and Topco Associates, LLC)**

Yvette Gonzales, the Chapter 7 Trustee (the "Trustee"), by counsel, moves the Court for an order approving the settlement of all claims the estate has against Topco Associates, Inc., n/k/a Topco Holdings, Inc., and Topco Associates, LLC ("Topco"), as set forth in the adversary proceeding No. 02-1252-S, captioned *Yvette J. Gonzales, Trustee v. Topco Associates, Inc. and Topco Associates, LLC* (the "Adversary Proceeding"), pursuant to F.R.Bankr.P.9019, and in support hereof states:

1. **Commencement and Conversion of Case.** On February 8, 2001, (the "Petition Date"), 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.

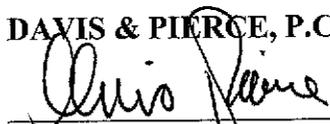
4. **The Adversary Proceeding.** In the Adversary Proceeding, the Trustee sought to recover Two Million Dollars and 00/100 (\$2,000,000.00) from Topco, plus certain additional amounts, under 11 U.S.C. §§547, 553 and 542 and applicable state law. The Trustee has recently sought to amend her complaint to assert certain additional causes of action for fraudulent conveyance and other relief.

5. **The Settlement.** Pursuant to the settlement agreement of the parties, the material terms of the settlement are confidential. The material terms of the settlement will be disclosed to the Court, the Office of the United States Trustee, and counsel for Heller Financial and Metropolitan Life. The terms of the settlement will not be disclosed to any other party in interest unless such party in interest executes a Confidentiality Agreement and returns such signed Confidentiality Agreement to counsel for the Trustee and counsel for Topco. Such Confidentiality Agreement shall provide, *inter alia*, that the third party shall not disclose the material terms of the settlement to any other party without the express written agreement of Topco or upon the entry of a Court Order, and that the party executing the Confidentiality Agreement shall be liable for damages in the event of a breach of the Confidentiality Agreement. Any party wishing to obtain the Confidentiality Agreement should contact undersigned counsel for the Trustee. If any party wishes to object to this Motion or the related confidentiality procedure, such party must file an objection within the time period set forth on the notice of this Motion, and a hearing to consider such objections will be scheduled on such notice as shall be approved by the Court . The Trustee states that the settlement is fair and equitable, and in the best interests of and beneficial to the Debtor's estate and its creditors.

WHEREFORE, the Trustee requests that the Court enter an Order approving the Motion

and the Settlement Agreement, authorizing the Trustee to take such action as may be necessary to implement the settlement and for such other relief as may be just.

**DAVIS & PIERCE, P.C.**



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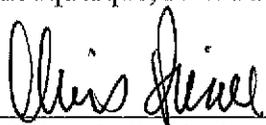
I hereby certify that a true and correct copy of the foregoing was mailed on December 23, 2003, to:

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