

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

In re:

FURR'S SUPERMARKETS, INC.,

Debtor.

Case No. 7-01-10779-SA

Chapter 7

**MOTION TO APPROVE SETTLEMENT OF
ADVERSARY PROCEEDING 03-1084-S
(Advo, Inc.)**

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 Advo, Inc. ("Advo, Inc."), as set forth in the adversary proceeding No. 03-1084-S, captioned *Yvette J. Gonzales, Trustee v. Advo, Inc.* (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 Three Hundred Fifty Seven Thousand Three Hundred Fifty One Dollars and 68/100 (\$357,351.68) from Advo, Inc., plus all other amounts, if any, recoverable pursuant to 11 U.S.C.

§547. After investigation and analysis of Advo, Inc.'s new value defense, which includes analysis of goods and/or services delivered to the Debtor within the preference period, the Trustee now believes that the total claim against Advo, Inc. is \$83,294.36.

5. **The Settlement.** Advo, Inc. has offered to pay the Trustee Seventy Thousand Dollars and 00/100 (\$70,000.00) in full satisfaction of any and all claims the Trustee has or may have against Advo, Inc., both pre-petition and post-petition, including without limitation claims asserted in the Adversary Proceeding. The parties will also execute a Mutual Release of Claims as a part of the settlement (the "Settlement"). The full terms of the Settlement are set forth in the attached Settlement Agreement. The Settlement is fair and equitable, and 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 Settlement and for such other relief as may be just.

DAVIS & PIERCE, P.C.
/s/ filed electronically 2/6/2004
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I hereby certify that on February 6, 2004,
a true and correct copy of the foregoing
was either electronically transmitted,
faxed, delivered or mailed to:

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