

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.,

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

Debtor.

MOTION TO APPROVE SETTLEMENT OF ADVERSARY PROCEEDING 03-1025 S

Yvette G. Gonzales, the Chapter 7 Trustee (the "Trustee"), by counsel, pursuant to F. R. Bankr. P. 9019, moves the Court to approve the settlement of adversary proceeding No. 03-1025S, captioned *Yvette J. Gonzales, Trustee v. National Beverage Corp., aka Shasta Northwest, aka Shasta Northwest, Inc. aka, Shasta Beverages* (the "Preference Action"), against the named defendant ("Preference Defendant"), and in support hereof states:

1. Commencement and Conversion of Case. 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, this Court entered an order converting the chapter 11 case to a case under chapter 7. On that date the Trustee was appointed as the trustee for the Debtor's bankruptcy estate, in which capacity she continues to serve.

2. 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.

3. The Preference Action. In the Preference Action, the Trustee sought to recover \$27,281.13 from the Preference Defendant, plus all other amounts, if any, recoverable under 11 U.S.C § 547.

4. The Settlement of the Preference Action. Preference Defendant and the Trustee have agreed that Preference Defendant will pay the Trustee \$23,000 (the "Settlement

Amount”). Following entry of an order granting this Motion and approving the Settlement Amount the Trustee will dismiss the Preference Action with prejudice.

5. Best Interests. The Preference Settlement is fair and equitable, and is in the best interests of and beneficial to the Debtor’s estate and the creditors.

WHEREFORE, the Trustee requests that the Court grant this Motion, approve the settlement outlined above, and grant all other just and proper relief.

JACOBVITZ, THUMA & WALKER
a Professional Corporation

By: Filed electronically
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This certifies that a copy of the foregoing was served by mail on:

Ronald E. Andazola
P.O. Box 608
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This 24th day of March, 2004.

Filed electronically
David T. Thuma