

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. 02-1201 S**  
*(Gonzales v. Gourmet Award Foods)*

THIS MATTER came before the Court on the Chapter 7 Trustee's ("Trustee") Motion to Approve Settlement of Adversary Proceeding No. 02-1201 S (the "Motion") (docket #2387). The Adversary Proceeding is captioned *Yvette J. Gonzales, Trustee v Gourmet Award Foods* (the "Adversary Proceeding").

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 the Adversary Proceeding, the Trustee sought to

collect \$64,915.78 in alleged post-petition excess prepayments made to Defendant (the "Account Balance"), as that term is defined in the Complaint, alleged to be owed by Defendant to the Furr's Estate. .

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 the form of which is attached to the Motion as Exhibit "A" (the "Settlement Agreement"). Pursuant to the Settlement Agreement, the Defendant shall pay to the Trustee \$53,567.00 (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 stipulation of dismissal of the Adversary Proceeding with prejudice.

E. On April 22, 2004, notice of the Motion (the "Notice") (docket #2388) 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.

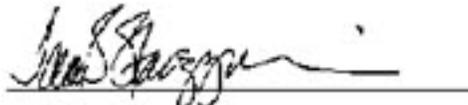
F. The Notice provided for a deadline to object to the Motion of May 17, 2004, which was 23 days after the date of mailing of the Notice. The Notice was sufficient and appropriate in the particular circumstances.

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 dismiss the Adversary Proceeding with prejudice.



JAMES S. STARZYNSKI  
United States Bankruptcy Judge

APPROVED:

JACOBVITZ, THUMA & WALKER, P.C.

By: s/ submitted by e-mail\_\_\_\_\_

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Attorneys for the Trustee

I hereby certify that on May 20, 2004, a true and correct copy of the foregoing was either electronically transmitted, faxed, delivered, or mailed to the listed counsel and parties.

