

**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 03-1080-S
(Charles L. Henry, Architect)

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 Charles L. Henry, Architect ("Charles Henry"), as set forth in the adversary proceeding No. 03-1080-S, captioned *Yvette J. Gonzales, Trustee v. Charles L. Henry, Architect* (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 One Hundred Sixty Two Thousand Seven Hundred Eighty Six Dollars and 53/100 (\$162,786.53) from Charles L. Henry, Architect, plus all other amounts, if any,

recoverable pursuant to 11 U.S.C. §547. Defendant denied any liability, and raised numerous defenses, including a defense that he received only \$80,670.04 from the Debtor during the preference period for his services.

5. **The Settlement.** Charles L. Henry has offered to pay the Trustee One Hundred Fifteen Thousand Dollars and 00/100 (\$115,000.00) in full satisfaction of any and all claims, including without limitation claims asserted in the Adversary Proceeding (the “Settlement”). Under the terms of the Settlement, Charles L. Henry shall pay the Trustee \$57,500.00 within 10 days of the entry of a Non-Appealable Order Approving Settlement of the Avoidance Action. Payment of the remaining balance of \$57,500.00 shall be due and payable one year from the date of the entry of the Order Approving Settlement, without interest. 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 6/09/04
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I hereby certify that a true and correct copy of the foregoing was mailed on June 9, 2004, to:

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