

**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 03-1111-S  
(Hewlett-Packard Company)**

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 Hewlett-Packard Company ("HP"), as set forth in the adversary proceeding No. 03-1111-S, captioned *Yvette J. Gonzales, Trustee v. Hewlett-Packard Company*. (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 Sixty One Thousand One Hundred Thirty Six Dollars and 18/100 (\$61,136.18) from HP,

plus all other amounts, if any, recoverable pursuant to 11 U.S.C. §547. After investigation and analysis of HP'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 HP is \$5,104.77.

5. **The Settlement.** HP has agreed to withdraw its administrative claim of \$ 87,804.35 and HP will not oppose the disallowance of all claims that it has in the bankruptcy proceeding in full satisfaction of any and all claims the Trustee has or may have against HP, 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/ Electronically filed 07/14/04  
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I hereby certify that on July 14, 2004,  
a true and correct copy of the foregoing  
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