

**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 03-1096 S
(Royal/Juarez Distributing)**

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 Royal C. Juarez Distributors ("Royal Juarez"), as set forth in the adversary proceeding No. 03-1096-S, captioned *Yvette J. Gonzales, Trustee v. Royal/Juarez Distributing* (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 Thirty Two Thousand Nine Hundred Sixty Five Dollars and 57/100 (\$32,965.57) from Royal Juarez, plus all other amounts, if any, recoverable pursuant to 11 U.S.C. §547. After

investigation and analysis of Royal Juarez' new value defense, which includes an analysis of goods and/or services delivered to the Debtor within the preference period, the Trustee now believes that the total claim against Royal Juarez is \$26,735.19.

5. **The Settlement.** Royal Juarez has offered to pay the Trustee Eighteen Thousand Dollars and 00/100 (\$18,000.00), to be paid in equal monthly installments of \$1,000.00 beginning on the date of the entry of the order and on the first day of each month thereafter until fully paid, in full satisfaction of any and all claims, including without limitation claims asserted in the Adversary Proceeding (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 08/26/04
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I hereby certify that a true and correct copy of the foregoing was mailed on August 26, 2004, to:

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