

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEW MEXICO

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J.S. BANKRUPTCY COURT
ALBUQUERQUE, N.M.

IN RE:

Case No. 11-01-10779 SA

FURR'S SUPERMARKETS, INC.,

Chapter 11

Debtor.

**JOE G. MALOOF AND COMPANY'S
OBJECTION TO UNSECURED CREDITORS COMMITTEE'S MOTION
TO AVOID LIENS AND OBJECTION TO CLAIMS OF LENDERS AND
LIQUOR LICENSE SECURED CLAIMANTS**

Comes now Joe G. Maloof and Company, by and through its attorneys, Marchiondo Vigil & Associates P.C. (Kimberly A. Middlebrooks) and Philip Marchiondo, and objects to the Motion to Avoid Liens and Objection to Claims of Lenders and Liquor License Secured Claimants upon the following grounds:

1. On May 23, 2001, the Unsecured Creditor's Committee filed its Official Committee of Unsecured Creditors of Furr's Supermarkets, Inc.'s Objection to Final Order (1) Authorizing Debtor to Obtain Secured Financing, (2) Granting Adequate Protection and (3) Granting Other Relief, and Motion to Avoid Liens; and Objection to Claims of Lenders and Liquor License Secured Claimants.

2. The above referenced pleading was served upon Debtor's Counsel, The Office of the United States Trustee, Counsel for Heller Financial, and counsel for Metropolitan Life Insurance Company as well as upon Pepper Hamilton, L.L.P. Notice of the filing of this pleading was not served upon any of the liquor license lien claimants.

3. The Liquor License Secured Claimants (including Joe G. Maloof and Company) hold valid, duly-perfected, super-priority liens upon the Debtor's liquor

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licenses by virtue of § 60-6B-3 NMSA 1978 recognized as automatically-perfected super-priority liens by *In re D & M. Inc.*, 114 B.R. 274, 276 (Bkrcty, D.N.M. 1990). Such liens are perfected at the time that the debt is incurred. *Id.*, at 276. Such liens are not avoidable under any provision of 11 U.S.C. § 544 of the United States Bankruptcy Code.

4. Liquor license liens of the type granted by the New Mexico liquor wholesales lien statutes are recognized as perfected liens in the bankruptcy context. *In re D & M. Inc.* 114 B.R. at 276. Therefore, the liquor license liens at issue are not subject to the “strong arm” powers of 11 U.S.C. § 544 of the United States Bankruptcy Code.

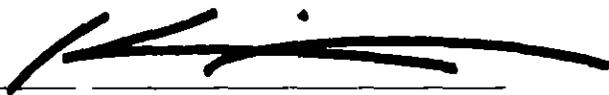
WHEREFORE, Joe G. Maloof and Company prays that the Motion be denied, and prays for such other and further relief as this Court deems just and proper.

Respectfully submitted,

Law Offices of Philip Marchiondo

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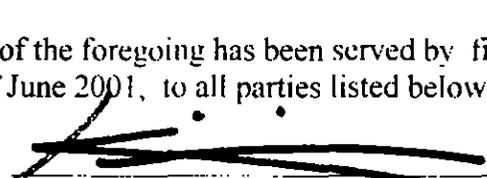
Marchiondo, Vigil & Associates, P.C.

By: 

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Certificate of Service

I hereby certify that a true and correct copy of the foregoing has been served by first class United States mail on this 27th day of June 2001, to all parties listed below.



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