

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.  
Tax I.D. No. 22-3137244

Case No. 11-01-10779 SA

Debtor.

**UNITED STATES TRUSTEE'S AMENDED OBJECTION TO  
APPLICATION FOR ORDER AUTHORIZING EMPLOYMENT AND  
RETENTION OF PROFESSIONALS USED IN ORDINARY COURSE OF BUSINESS**

The United States Trustee for the District of New Mexico hereby objects to the Application for Order Authorizing Employment and Retention of Professionals Used in Ordinary Course of Business (Application), and as her reasons therefore states the following:

1. The Application requests that KPMG Peat Marwick (KPMG) be considered a “professional used in the ordinary course of business.” In this regard, it is disclosed that KPMG provides accounting services for the Debtor apparently in the preparation of state and federal tax returns. Further, KPMG also provides services to the Debtor in connection with an audit being conducted by the New Mexico Department of Taxation & Revenue.

2. The U.S. Trustee respectfully submits that tax information is a vital portion of any disclosure statement and the above services are therefore central to the administration of this chapter 11 proceeding. As a consequence, KPMG should be required to comply with all Code provisions relating to professionals.

3. The Application further requests that Scruggs Consulting Corp. (Scruggs) and G.M. Grubbs (Grubbs) be treated as ordinary course professionals. Scruggs provides actuarial services to determine reserves needed for worker's compensation and general liability claims. Grubbs

provides actuarial services to determine the Debtor's liability for retirement benefits. Further, the Application discloses that each actuary will incur fees and expenses of \$50,00 to \$70,000 over a two-month period.

4. Information regarding the debtor's retirement, workers' compensation, and general liability reserves would certainly be vital in the preparation of a disclosure statement and plan. As such, the actuaries will play a central role in the administration of this proceeding and they should be considered professionals subject to all applicable Code requirements.

5. The Application, at paragraph 8, sets caps for payment of fees to individual ordinary course professionals of \$10,000 in any month and \$100,000 for the entire case. Beyond these limits, ordinary course professionals would be required to submit fee applications in accordance with §§330 & 331.

6. While in some cases the above caps may be appropriate, given the number of professionals proposed to be employed in this matter and the slim profit margins on which the grocery store chains generally operate, lower caps may be appropriate in order to ensure that fees are both reasonable and necessary.

Respectfully submitted,

BRENDA MOODY WHINERY  
United States Trustee

Filed electronically 3/28/01  
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The undersigned certifies that a true and accurate copy of the foregoing was mailed and sent by telefacsimile to the below listed counsel this 28th day of March, 2001.

Filed electronically 3/28/01

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