

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

FILED

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U.S. BANKRUPTCY COURT
ALBUQUERQUE, NM

In Re:)	Chapter 11
)	
FURR'S SUPERMARKETS, INC.,)	Case No. 01-10779-SA
)	
Debtor.)	No Hearing Date
)	

**APPLICATION OF CHAIRPERSON OF THE OFFICIAL UNSECURED
CREDITORS' COMMITTEE FOR ORDER PURSUANT TO 11 U.S.C. § 327(a)
AUTHORIZING THE RETENTION AND EMPLOYMENT OF
DELOITTE CONSULTING L.P. AND DELOITTE & TOUCHE LLP
NUNC PRO TUNC TO SERVE AS
FINANCIAL ADVISORS AND REORGANIZATION CONSULTANTS**

RICK REHN, Vice-Chairperson of The Official Unsecured Creditors' Committee (the "Committee") of the Debtor herein, for his Application (the "Application") For Order Pursuant to 11 U.S.C. § 327(a) Authorizing the Retention and Employment of Deloitte Consulting L.P. and Deloitte & Touche LLP (collectively, for purposes of this Application only, "Deloitte") to serve as Financial Advisors and Reorganization Consultants to the Committee nunc pro tunc to February 21, 2001, states as follows:

BACKGROUND

1. On February 8, 2001 (the "Petition Date"), Furr's Supermarkets, Inc. (the "Debtor") filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code (the "Code"). Following the Petition Date, the Debtor intends to continue in the possession of its respective properties and the management of its respective businesses as debtor in possession pursuant to Sections 1107 and 1108 of the Code.

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2. On or about February 13, 2001, the United States Trustee appointed the Committee under Section 1102 of the Code.

3. On February 21, 2001, at a scheduled meeting of the Committee, at which all of its members were present, and pursuant to the provisions of Section 1103 of the Code, the Committee selected and authorized the retention and employment of Deloitte to serve as its Financial Advisors and Reorganization Consultants.

4. This Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157 and 1334. Venue of this case and this Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are §§ 328 and 1103 of the Code, as supplemented by Rule 2014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

RELIEF REQUESTED

5. By this Application, the Committee seeks authority to retain and employ Deloitte as financial advisors and reorganization consultants during this chapter 11 case, pursuant to sections 328 and 1103 of the Code, effective as of the date of its selection of Deloitte, February 21, 2001.

6. The Committee has requested that Deloitte immediately commence work on this case in order for Deloitte to assist the Committee in: (i) the Committee's evaluation of the Debtor's proposed debtor in possession ("DIP") financing arrangements; (ii) the Committee's analysis of the Debtor's proposed key employee retention plans; (iii) the Committee's negotiations with the Debtor to employ Trade Liens as a mechanism of financing the Debtor's operations in addition to the DIP; and (iv) as requested by the Committee and as agreed to by Deloitte, consulting/advising in other pending matters in which the Committee has an interest.

As such, it is imperative that the Application be considered by the Court as expeditiously as possible.

7. The Committee believes that the size of the Debtor's operations and the complexity of its attendant financial difficulties required the Committee to employ a financial advisor and reorganization consultant to assist the Committee in gathering and analyzing financial information and to perform other services as set forth herein. The Committee hereby requests this Court's approval of its employment and retention of Deloitte in this chapter 11 case. The Committee believes that the employment of Deloitte will be essential to the resolution of this chapter 11 case.

8. The Committee has reviewed the qualifications and experience of Deloitte's personnel and believes that Deloitte has considerable experience in advising creditors and assisting restructuring companies both inside and outside of chapter 11 cases. For example, Deloitte has assisted debtors in addressing issues related to amendments of prepetition secured financing facilities and restructuring of balance sheets, and has assisted a number of prominent companies in bankruptcy and out-of-court restructurings. Furthermore, Deloitte has assisted secured creditors, unsecured creditors, bondholders, and equity holders in numerous bankruptcy cases and out-of-court restructurings. Deloitte is a highly qualified reorganization consultant and professional services firm whose professionals have substantial experience in projects of this type. Deloitte's depth of experience renders it particularly well qualified and uniquely able to provide services to the Committee during the pendency of this case. Personnel from both Deloitte Consulting L.P. and Deloitte & Touche LLP will perform services pursuant to Deloitte's retention and employment as described in this Application. All of Deloitte's work will be supervised by Anthony D. Forcum, a highly experienced Principal of Deloitte Consulting L.P.

9. The Committee proposes that Deloitte be retained as its financial advisors and reorganization consultants in connection with this chapter 11 case on the terms set forth herein.

SCOPE OF RETENTION

10. The Committee contemplates that Deloitte will provide advisory services and assistance in connection with the restructuring and reorganization of the Debtor's affairs throughout the course of this chapter 11 case as the Committee or its counsel may request and as agreed to by Deloitte. Certain of the advisory services and assistance that Deloitte may render to the Committee may be summarized as follows:

- a) Assist the Committee in connection with assessing the Debtor's cash and liquidity requirements, as well as its future financing requirements;
- b) Assist the Committee in connection with monitoring the Debtor's financial and operating performance, including its statements of financial affairs, monthly operating reports, etc.;
- c) Assist the Committee in connection with evaluating the Debtor's businesses and operation, including stability plans, management retention, business outlook, etc.;
- d) Assist the Committee in connection with evaluating the Debtor's business, operational, and financial plans, both short-term and long-term;
- e) Assist the Committee in connection with evaluating the Debtor's current operations, executory contracts, capital expenditures, and cost reduction opportunities;
- f) Assist the Committee in connection with evaluating the Debtor's business configuration, and operational alternatives;
- g) Assist the Committee in connection with evaluating restructuring-related alternatives, including tax implications;

- h) Assist the Committee in connection with restructuring-related negotiations and negotiations concerning plan or plans of reorganization;
- i) Advise the Committee concerning the Debtor's claims;
- j) Consistent with the scope of services set forth herein, attending and participating in appearances before the United States Bankruptcy Court;
- k) Assist the Committee, where appropriate, in reviewing the books and records of the Debtor for related party transactions and unenforceable claims; and
- l) Provide such other related services as may be requested by the Committee or its counsel and as agreed to by Deloitte.

DISINTERESTEDNESS AND LACK OF ADVERSE INTEREST

11. To the best of the Committee's knowledge, and based upon the affidavit of Anthony D. Forcum (the "Forcum Affidavit") and the affidavit of Ed J. Lynch (the "Lynch Affidavit," the Forcum Affidavit and the Lynch Affidavit being hereinafter known collectively as the "Affidavits"), neither Deloitte Consulting L.P. nor Deloitte & Touche LLP hold, or represent any other entity having an interest adverse to the Debtor or its estate in connection with this case. Furthermore, to the best of the Committee's knowledge, neither Deloitte Consulting L.P. nor Deloitte & Touche LLP has any connection with the Debtor, or its significant creditors, the United States Trustee's office, or another party in interest in this chapter 11 case, or with the Debtor's attorneys or accountants, except as stated herein or in the Affidavit of Ed J. Lynch of Deloitte & Touche LLP or the Affidavit of Anthony D. Forcum of Deloitte Consulting L.P., as is fully disclosed in the attached.

(a) As is discussed in more detail in the Affidavits, from time to time Deloitte or its affiliates have provided, may currently provide, and may in the future continue to provide professional services to certain of the Debtor's creditors or other parties in interest in

matters unrelated to this chapter 11 case. A listing of such parties is shown on Exhibit A hereto. Deloitte provides or has provided audit, tax and consulting services to or involving: (i) certain of the Debtor's current financing sources or affiliates, including Bank of America, Credit Suisse Group, Finova Group, Fleet Bank (now FleetBoston, "Fleet"), Heller Financial, and Wells Fargo; (ii) certain of the Debtor's major creditors or its affiliates, including Anderson News Company, The Boeing Company, ConAgra Inc. (both of which are major Deloitte clients), Edison Source, Fleming Companies, Inc. ("Fleming"), General Mills, Pepsico Inc., Procter & Gamble, Quaker Oats, Southern Wine & Spirits, and United Food & Commercial Workers Union; (iii) certain of the Debtor's professionals, including Skadden, Arps, Slate, Meagher & Flom LLP which also provides services to Deloitte; and (iv) certain of the Debtor's current financing sources provide financing to Deloitte or its individual partners or principals, including Bank of America and Fleet. Fleet provides financing to Deloitte or its individual partners or principals. Bank of America is a significant lender to Deloitte or its members. Metropolitan Life Insurance Company ("MetLife"), an equity holder and lender to the Debtor, is a significant client of Deloitte to whom Deloitte provides audit, tax, and certain other services. Fleming, a former equity holder and creditor of the Debtor, is a significant client of Deloitte to whom Deloitte provides audit, tax, and certain other services. Deloitte provides Windward Capital Partners, including its related funds (collectively, "Windward"), transaction support/merger and acquisition advisory services. MetLife is an investor in Windward. Deloitte has advised the Committee that it has not provided services to any of these entities related to the Furr's Supermarkets, Inc. If this Application is approved by this Court, Deloitte will perform such services requested by the Committee relative to matters in this chapter 11 case involving MetLife, Windward, and Fleming, save and except providing expert testimony at trial in any

adversary proceeding brought by the Committee against MetLife, Windward, and/or Fleming. Deloitte has from time to time been involved with certain of the Debtor's and Committee's professionals in matters unrelated to this case, including Cohen Weiss & Simon, Pepper Hamilton LLP, and Pryor, Cashman, Sherman & Flynn.

(b) Deloitte believes that the relationships described herein or in the Affidavit do not cause Deloitte to lack "disinterestedness" or to represent an entity having an adverse interest in connection with this case. Should the Court approve its retention, Deloitte will maintain its customary confidentiality procedures in connection with services it provides in this case, and will not, unless specifically authorized by the Court, represent any other party in connection with this case. Because Deloitte is a nationwide firm with many client relationships, and because the Debtor is a very large enterprise, Deloitte is unable to state with certainty that every client relationship or other connection has been disclosed. In this regard if Deloitte discovers additional information that it determines requires disclosure, it will file a supplemental disclosure with the Court promptly.

TERMS OF RETENTION

12. Subject to allowance and approval by this Court, in exchange for the services summarized above, Deloitte will charge its regular hourly rates in performing the aforementioned services. These hourly rates at present range from \$325 to \$600 for partners, principals and directors, \$275 to \$550 for senior managers, \$225 to \$480 for managers, \$175 to \$360 for senior consultants, and \$140 to \$250 for consultants, analysts and staff. In the normal course of business, Deloitte revises its regular hourly rates periodically to reflect changes in responsibilities, increased experience, and increased costs of doing business, and Deloitte

requests that the aforementioned rates be revised to the regular hourly rates that will be in effect from time to time. Changes in regular hourly rates will be noted on the invoices for the first time period in which the revised rates become effective.

13. The Committee believes Deloitte's fees are comparable with or lower than those of Deloitte's competitors. In addition to its fees, subject to Court approval, Deloitte shall be entitled to reimbursement of all reasonable out-of-pocket costs and disbursements, including, but not limited to, telephone and telecopier charges, mail and express mail charges, special or hand delivery charges, computer usage, document processing, photocopying charges, travel expenses, and computerized research as well as any applicable New Mexico gross receipts or use tax.

14. The Committee has been informed that Deloitte intends to apply for compensation for professional services to be rendered in connection with this chapter 11 case and for reimbursement of expenses incurred, in accordance with applicable provisions of the Code, the Federal Rules of Bankruptcy Procedure, the Local Bankruptcy Rules of the United States Bankruptcy Court for the District of New Mexico, the Clerk's Practice and Procedure Guide, the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under § 330, the Application (if entered), this Court's February 15, 2001 Order Prescribing Notice on Debtor's Applications to Retain Skadden, Arps, Slate, Meagher & Flom LLP, Jacobvitz, Thuma & Walker, and PricewaterhouseCoopers, LLP (the "February 15 Order Prescribing Notice"), and other applicable Orders of this Court.

¹ The Order directed that the Debtor, on twenty day's notice, serve a copy of its professional's retention applications on the following parties: (a) the United States Trustee; (b) the Debtor's creditors set forth on the list filed pursuant to Bankruptcy Rule 1007(d); (c) the lenders entitled to notice under this Court's Interim Order

15. The February 15 Order Prescribing Notice also stated that the Debtor may supplement each retention application to seek Court approval that the retained professional may invoice the Debtor monthly and propose that the Debtor may pay, on a monthly basis, 75% of each professional's time charges and 100% of its out-of-pocket expenses, and 100% of gross receipts or use tax (if applicable) on fees and expenses that are payable, all payments to be subject to the Court's approval pursuant to 11 U.S.C. §§ 330 and 331 (the "Interim Fee Motion").

16. In accordance with the Court's suggestion as set forth in the February 15 Order Prescribing Notice, and in recognition of the Debtor's Interim Fee Motion filed on February 20, the Committee requests that the following procedures for compensating and reimbursing its court-approved professionals on a monthly basis be established, in accordance with the regular procedures of this Court. The procedures requested by the Committee are as follows:

(a) Each Committee professional will submit to the Debtor, on a monthly basis, a detailed statement (a "Fee Statement") of services rendered and expenses incurred by such professional during the prior month. The Debtor shall have until the fifteenth calendar day of the following month after the submission of the Fee Statement to review it (although the Debtor is not required to wait the full fifteen days). In the event there are no objections, the Debtor would be

authorizing debtor in possession financing, entered on February 9, 2001, (d) all parties in interest who have requested special notice in this case, and (e) all other persons who commented on the Applications at the February 8 hearings thereon.

authorized to immediately pay 75% of the amount in fees billed each month and 100% of the expenses billed for each month. In the event there are objections raised with regard to specific items, subject to paragraph (b) infra, the Debtor would still be authorized to immediately pay 75% of the amount in uncontested fees billed each month and 100% of the uncontested expenses billed for each month. These payments would be subject to the Court's subsequent approval as part of the normal interim fee application process.

(b) In the event the Debtor determines that the compensation and or reimbursement sought in a particular statement is inappropriate or unreasonable, or that the numbers and calculations are incorrect, the Debtor shall, on or before the fifteenth day of the calendar month after the submission of the Fee Statement, serve upon the professional whose statement is objected to a "Notice of Objection" with an affidavit setting forth the precise nature of the objection and amount at issue. Thereafter, the Debtor and the professional whose Fee Statement is objected to shall meet or confer to attempt to reach an agreement regarding the correct payment to be made. If an agreement cannot be reached or if no meeting takes place, the professional whose Fee Statement is objected to shall have the option of (i) filing the Notice of Objection, the Fee Statement and a request for payment with the Court, or (ii) foregoing payment of the disputed amount until the next interim fee application hearing, at which time the Court will consider and dispose of the objection if payment of the disputed amount is requested. As set forth in paragraph (a) supra, the Debtor shall still be required to pay promptly that

percentage set forth above of any portion of the fees and expenses requested that are not the subject of a Notice of Objection.

17. The procedures outlined in ¶16(a) above are consistent with the procedures requested by the Debtor pursuant to its February 20, 2001 Interim Fee Motion, and are appropriate given the size and complexity of this reorganization case. While the Debtor did not specify any type of procedure to resolve disputes, the Committee believes the procedures detailed in ¶16(b) are reasonable and consistent with similar procedures implemented in comparable bankruptcy cases. The procedures suggested in this Application will enable all parties to closely monitor costs of administration, maintain a level cash flow, and implement efficient cash management procedures.

18. The Committee believes that the prompt retention of Deloitte as its financial advisors and reorganization consultants on the terms described above effective as of February 21, 2001, is in the best interest of this estate.

PROCEDURE

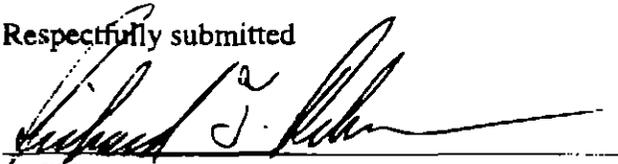
19. No trustee or examiner has been appointed to date in this case. The Committee has served copies of this Application on all parties required to be served pursuant to the February 15 Order Prescribing Notice.

20. No previous application or other request for the relief sought herein has been made to this or any other court.

CONCLUSION

WHEREFORE, the Committee respectfully requests that the Court enter an order approving its selection of Deloitte as financial advisors and reorganization consultants to the Committee in these proceedings, said appointment to be effective as of February 21, 2001.

Respectfully submitted



RICK REHN, Vice-Chairperson
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Dated: March 13, 2001

I certify that on March 13, 2001, I mailed a copy of this document to:

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EXHIBIT A

Parties in Interest

Current or Former Clients of Deloitte & Touche and/or Deloitte Consulting	Relationship to the Debtors
Anderson News Company	Unsecured Creditor
Bank of America, N.A.	Secured Lender
Boeing Company	Affiliate McDonnell Douglas Finance is an Unsecured Creditor
Cohen Weiss & Simon	Outside Counsel for United Food & Commercial Workers (an unsecured creditor)
ConAgra, Inc.	Affiliate ConAgra Beef Co. is an Unsecured Creditor
Credit Suisse Group	Affiliate Credit Suisse First Boston Private Equity is a Secured Lender and Equity Investor
Edison Source	Unsecured Creditor
Finova Group, Inc.	Affiliate Finova Capital Corporation is an Unsecured Creditor
Fleet Capital Corporation	Secured Lender
Fleming Companies	Creditor
General Mills	Unsecured Creditor
Heller Financial	Secured Lender
Metropolitan Life Insurance Company	Secured Lender, Unsecured Creditor, and Equity Investor
Pepper Hamilton LLP	Counsel to the Unsecured Creditors' Committee
Pepsico, Inc.	Affiliates Pepsi-Cola and Frito Lay are

Current or Former Clients of Deloitte & Touche and/or Deloitte Consulting	Relationship to the Debtors
	Unsecured Creditors
Philip Morris	Affiliate Kraft is an Unsecured Creditor
Procter & Gamble	Unsecured Creditor
Pryor, Cashman, Sherman & Flynn	Outside Counsel for Countrywide Logistics
Quaker Oats Company	Unsecured Creditor
Skadden, Arps, Slate, Meagher & Flom LLP	Debtor's bankruptcy counsel
Southern Wine & Spirits	Unsecured Creditor
United Food & Comm Workers Union	Unsecured Creditor
Wells Fargo & Company	Creditor
Windward Capital Partners	Secured Lender and Equity Investor