

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

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U.S. BANKRUPTCY COURT
ALBUQUERQUE N.M.

IN RE:
FURR'S SUPERMARKETS, INC.

Debtor

§
§
§
§

Case No. 11-01-10779-SA
Chapter 11

**LAKEWAY SHOPPING CENTER'S BRIEF
IN SUPPORT OF AWARD OF ATTORNEYS FEES
AS PART OF CURE AMOUNT FOR ASSUMPTION OF LEASE**

TO THE HONORABLE JAMES S. STARZINSKY, U.S. BANKRUPTCY JUDGE:

LAKEWAY SHOPPING CENTER ("Lakeway"), a lessor, creditor and party-in-interest in the above-referenced case, files the following Brief in Support of Award of Attorneys Fees as Part of Cure Amount for Assumption of Lease, and would show the Court as follows:

Procedural Background

1. Furr's Supermarkets, Inc. ("Debtor"), filed a voluntary petition for relief on February 8, 2001.
2. Lakeway is a lessor under an unexpired lease for nonresidential real property (the "Lease") for Furr's store no. 916, located at 1900 N. Date, Truth or Consequences, New Mexico.
3. By Order entered July 3, 2001, the Court approved an Asset Purchase Agreement between the Debtor and Fleming Companies, Inc. ("Fleming") for the sale of the Debtor's assets and leases. Pursuant to the sale transaction with Fleming, Lakeway has been notified that the proposed third-party purchaser and assignee of its Lease is S.C. Erica, Inc. ("Erica").

Handwritten signature

Cure Amount Hearing

4. At the Debtor's request, the Court established a procedure for determination of "cure amounts" to be paid to lessors for assumption and assignment of their leases. In accordance with such procedure, the Debtor issued a Notice of

~~REDACTED~~ ~~As a result of the above, Lakeway filed an objection to the proposed~~

cure amounts. A hearing on cure amounts was held on August 14, 2001. At the hearing, Lakeway and the Debtor announced an agreement on the cure amount for the Lease, with the exception of whether Lakeway's attorneys fees should be part of the cure amount which remained for resolution by the Court. Lakeway reserved its right to seek its attorneys fees as part of the cure amount and to file a brief regarding the same.

(A) cures, or provides adequate assurance that the trustee will promptly cure, such default;

(B) compensates, or provides adequate assurance that the trustee will promptly compensate, a party other than the debtor to such contract or lease, *for any actual pecuniary loss to such party resulting from such default*; (emphasis added)

7. As a result of the Debtor's defaults under the Lease, Lakeway has incurred "actual pecuniary loss" by having to employ and pay attorneys (KGM) to represent it and protect its interest in the Lease in the Debtor's bankruptcy proceeding.

8. Bankruptcy courts have consistently held that a lessor is entitled to recover its reasonable attorneys fees under §365(b)(1)(B) as a condition of assumption of a lease. Most courts have required payment of the lessor's attorneys fees if the underlying lease agreement between the parties provides for recovery of attorneys fees. See e.g., In re Entertainment, Inc., 223 B.R. 141, 152-53 (Bankr. N.D. Ill. 1998); In re MS Freight Distribution, Inc., 172 B.R. 976, 978 (Bankr. Wash. 1994); In re Pacific Sea Farms, Inc., 134 B.R. 11, 15 (Bankr. D. Ha. 1991); In re Hillsborough Holdings Corp., 126 B.R. 895, 898 (Bankr. M.D. Fla. 1991); In re Westview 74th Street Drug Corp., 59 B.R. 747, 756 (Bankr. S.D. N.Y. 1986); In re Bullock, 17 B.R. 438, 439 (BAP 9th Cir. 1982).

9. The rationale supporting such cases is that the language of and Congressional intent behind §365 is to indemnify the lessor of the lease being assumed from "loss." As the Bankruptcy Appellate Panel stated in Bullock, "the purpose of §365(b)(1)(B) is to indemnify the other party to the contract or lease being assumed, against loss. The purpose of an attorney's fees clause in a lease . . . is to indemnify the lessor . . . against legal expenses incurred by reason of the other party's default". 17

B.R. at 439. See also Pacific Sea Farms, 134 B.R. at 15 (“the intent of Congress, evidenced by both the statutory language and the legislative history, makes clear that §365(d) was amended to protect lessors from the risk of loss in bankruptcy cases . . . such loss would include attorneys fees necessarily and reasonably incurred by the lessor in protecting its rights under the lease with the debtor”).

10. The Lakeway Lease has an attorneys fees provision. Attached hereto as Exhibit A is an excerpt from the Lakeway Lease.¹ With respect to attorneys fees, the Lease provide as follows:

24. Attorney’s fees. If lessor or lessee files a suit against the other which is in any way connected with this lease, the unsuccessful party shall pay to the prevailing party a reasonable sum for attorney’s fees, which shall be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

11. Lakeway recognizes that the attorney fee provision in the Lease is triggered by the filing of a suit by the lessor and a successful recovery in such suit. However, but for the Debtor’s bankruptcy filing and the imposition of the automatic stay, Lakeway would have had the right to file a suit against the Debtor for its pre-petition defaults, and recover reasonable attorneys fees under the express terms of the Lease. As evidenced by the cure amount for pre-petition rent and taxes that are due, Lakeway would have been successful in any such suit against the Debtor.

12. The fact that the attorneys fees were incurred by Lakeway in a bankruptcy proceeding because of the automatic stay, instead of through filing of a suit in state court within the express attorneys fees provision of the Lease, should not deprive Lakeway from recovery of its attorneys fees. Bankruptcy courts have recognized that a

¹ Lakeway is the successor entity to V.P. Clarence Company, lessor.

lessor that uses bankruptcy procedures to enforce a lease is not precluded from recovery of attorneys fees, because the Bankruptcy Court is the exclusive forum from which the lessor can obtain relief since it is prevented from state court relief by the automatic stay. Entertainment, 223 B.R. at 153.

13. Furthermore, regardless of the attorneys fees provision in the Lease, some bankruptcy courts have held that a lessor's attorneys fees are recoverable under §365 as a condition of assumption. See e.g., In re Westworld Community Healthcare, Inc., 95 B.R. 730, 733 (Bankr. C.D. Cal. 1989); In re Foreign Crating, Inc., 55 B.R. 53, 54 (Bankr. E.D. N.Y. 1985). These decisions hold that a lessor's attorneys fees constitute a "pecuniary loss" under §365(b)(1)(B), without regard to the underlying lease provisions. In Westworld, the Court found that §365(b)(1)(B) provided a separate right of compensation for loss related to a default under an assumed lease. Further, the Westworld Court dealt with an attorneys fees clause in the lease similar to the clause in Lakeway's Lease, and found that the attorneys fees clause did not limit the right of the lessor to be indemnified for attorneys fees under §365. 95 B.R. at 733. The Court's rationale is consistent with the express statutory language of §365(b)(1)(B), which does not limit a lessor's recovery of actual pecuniary loss to the terms of the underlying lease agreement. See Westworld, 95 B.R. at 733 (citing In re Bullock, 17 B.R. 438, 439 (9th Cir. BAP 1982) for the proposition that §365(b)(1)(B) provides a separate right of compensation for loss to the lessor).

Reasonableness and Necessity of Attorneys Fees

14. Through August 10, 2001, Lakeway has incurred the amount of \$2,116.81 in attorneys fees and expenses to KGM with respect to enforcement of its rights under

the Lease in this bankruptcy proceeding.² Attached hereto as Exhibit B is a copy of the invoices for KGM (attorneys for Lakeway)³ setting forth the date the services were rendered, a description of the services, the attorney performing the services, the hourly rate of the attorneys, and the amount of time spent rendering the services, as well as expenses.⁴ Most of the services were rendered by Mr. Carlos Miranda of KGM, at the hourly rate of \$165 per hour. A small amount of the services were rendered by H. Christopher Mott of KGM, at the hourly rate of \$195 per hour. Both Messrs. Miranda and Mott are board certified in business bankruptcy law by the Texas Board of Legal Specialization, and have significant experience in business bankruptcy cases. It is respectfully submitted that KGM's hourly rates are reasonable, particularly in light of the hourly rates charged by the Debtor's professionals in this case, which range from \$230 - \$670 per hour for its general counsel and \$150 - \$175 per hour for its local counsel.

15. It was necessary for Lakeway to retain attorneys to represent and protect its rights under the Lease in this complex bankruptcy proceeding. The Debtor is in monetary default under the Lease. The real property and store that is the subject of the Lease is part of a valuable shopping center. The Debtor repeatedly sought extensions of time to assume or reject the Lease, well in excess of the 60-day period provided by the Bankruptcy Code. First the Debtor announced that it was going to auction the

² Lakeway has and will continue to incur attorneys fees and expenses in this matter, until the Lease is actually assumed and assigned. Therefore, Lakeway reserves the right to seek further reasonable and necessary attorneys fees and expenses incurred after August 10, 2001.

³ KGM has represented other lessors in this bankruptcy case and has billed for the fees and expenses attributable to other lessors separately without duplication.

⁴ Additional expenses have been incurred through August 10, 2001 that have yet to be billed.

Leases. Then the Debtor then entered into a complex sale transaction with Fleming, whereby Fleming was given the right to direct the assignment of the Lease to unknown third-party purchasers. The Debtor thereafter established a multi-step procedure to determine if the lease assumption requirements of §365 could be satisfied, including a separate procedure for adequate assurance of future performance, a separate procedure for determination of cure amounts, and eventually a hearing on actual assumption and assignment. Throughout this multi-step process, many of the hearings affecting the Lakeway Lease were set, objections were due, and hearings held on an expedited basis with shortened notice. As Lakeway and its counsel are located in Texas, trips to Albuquerque for hearings were necessary.⁵ Literally every step of the process was accompanied by multiple pleadings and notices from the Debtor, many of which were then amended, and which affected Lakeway's rights under the Lease. Under no circumstances could the Debtor's case and the sale of the Lakeway Lease be considered a simple and straightforward assumption and assignment of a lease by a debtor in possession. Constant legal representation was needed by Lakeway with respect to its rights under the Lease because of the particular nature of this bankruptcy case.

WHEREFORE, PREMISES CONSIDERED, Lakeway prays that the Court award it reasonable attorneys fees and expenses as part of the cure amount to be paid for assumption and assignment of its Lease in the amount of \$2,116.81 as of August 10, 2001, without prejudice to Lakeway's right to request additional reasonable attorneys

⁵ Lakeway is appreciative of the Court's willingness to permit attendance of hearings by telephone, which has reduced expenses significantly.

fees incurred and expenses accounted for after such date through the date of actual assumption and assignment of its Lease, and for such other and further relief to which it may show itself to be justly entitled.

Respectfully submitted,

KRAFSUR GORDON MOTT P.C.
4695 N. Mesa St.
El Paso, Texas 79912
(915) 545-1133 (Telephone)
(915) 545-4433 (Facsimile)

By: 

Carlos A. Miranda, III
Texas State Bar No. 14199582
H. Christopher Mott
Texas State Bar No. 14596430

Attorneys for Lakeway Shopping Center

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 17th day of August 2001, he caused a true and correct copy of the foregoing Brief to be sent by facsimile and first class mail to counsel for the Debtor as follows:

Robert H. Jacobvitz, Esq.
Jacobvitz Thuma & Walker P.C.
500 Marquette N.W., Suite 650
Albuquerque, NM 87102
(facsimile 505-766-9287)

Stephen J. Lubben, Esq.
Skadden Arps Slate Meagher
& Flom LLP
300 S. Grand Avenue, Suite 3400
Los Angeles, CA 90071-3144
(facsimile 213-687-5600)



Carlos A. Miranda, III

SHOPPING CENTER LEASE

THIS LEASE is made this 1 day of July, 1983, between V. P. CLARENCE COMPANY, lessor,

and SAFEWAY STORES, INCORPORATED, a Maryland corporation, lessee, on the following terms and conditions:

1. Premises. Term. Lessor hereby leases to lessee a portion of the following-described real property in the City of Truth or Consequences, County of Sierra, State of New Mexico

It is understood and agreed that the legal description is not available on the date of this lease. Lessor agrees to employ a surveyor or title company to prepare a legal description of the shopping center as shown on Exhibit "A" hereto. Said legal description shall be acceptable to the title insurer referred to in paragraph 3 hereof and shall, if approved by lessee, be adopted as the description in this lease by a lease modification agreement attaching the same hereto as Exhibit "B" hereof, executed by the parties hereto within forty-five (45) days of the date of this lease, and shall be used in the short form lease and title evidence. The title-insurer-approved description shall be provided to lessee for approval within thirty (30) days of the date of this lease. In the event the legal description is not approved by lessee within forty-five (45) days of the date of this lease, lessee may cancel this lease by notice to lessor.

on which property lessor is to construct the Lakeway Shopping Center (herein called the "shopping center") as shown on the plan dated July 1, 1983, last revised July 14, 1983, attached hereto as Exhibit "A". The portion of the shopping center hereby leased (herein called the "leased premises") is designated "Safeway" and outlined in RED on Exhibit "A", and includes the building, or portion of building, and related improvements to be constructed thereon by lessor in accordance with the provisions of this lease.

TO HAVE AND TO HOLD the leased premises, together with all appurtenances, for a term of twenty (20) years commencing Nov. 1, 1984, and ending October 31, 2004

2. Rent. Lessee agrees to pay rent in the sum of sixteen thousand one hundred three Dollars (\$16,103.00) per month during years 1 through 5, sixteen thousand seven hundred twenty three Dollars (\$16,723.00) per month during years 6 through 10, seventeen thousand, three hundred forty one Dollars (\$17,341.00) per month during years 11 through 15, and seventeen thousand nine hundred sixty one Dollars (\$17,961.00) per month during years 16 through 20 and all option periods. Rent shall be paid on the first day of each calendar month by checks or drafts payable to and mailed to V. P. Clarence Company, P.O. Box 1829, El Paso, Texas, 79949.

or as designated in writing by lessor. The rent for any fractional month shall be prorated.

23. Automatic termination. Notwithstanding anything herein to the contrary, if this lease has not previously been terminated and term of this lease has not commenced by five (5) years from the date of this lease, this lease shall thereupon automatically terminate.

24. Attorney's fees. If lessor or lessee files a suit against the other which is in any way connected with this lease, the unsuccessful party shall pay to the prevailing party a reasonable sum for attorney's fees, which shall be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

25. Paragraph headings. The paragraph headings of this lease are inserted only for reference and in no way define, limit, or describe the scope or intent of this lease nor affect its terms and provisions.

26. Lease execution and change. It is understood and agreed that until this lease is fully executed and delivered by both lessor and the authorized corporate officers of lessee there is not and shall not be an agreement of any kind between the parties hereto upon which any commitment, undertaking or obligation can be founded. It is further agreed that once this lease is fully executed and delivered that it contains the entire agreement between the parties hereto and that, in executing it, the parties do not rely upon any statement, promise or representation not herein expressed and this lease once executed and delivered shall not be modified, changed or altered in any respect except by a writing executed and delivered in the same manner as required for this lease.

27. Rights of successors. All of the rights and obligations of the parties under this lease shall bind and inure to the benefit of their respective heirs, personal representatives, successors and assigns.

28. Common Area Maintenance Reimbursement. Lessee agrees to reimburse lessor for lessee's share of the costs incurred by lessor in lighting the common areas, in keeping same striped, clean and cleared of snow and ice and in maintaining the common areas in good repair, excluding, however, the costs of any capitalizable improvements or additions to the common areas. Lessee shall so reimburse lessor no more often than once each month. Lessee's share shall be the sum of seventeen (17¢) per calendar year for each square foot of the building area on the leased premises.

IN WITNESS WHEREOF, the parties have executed this lease as of the day and year first above written.

V. P. CLARENCE COMPANY
By Victor P. Clarence
Its President

By _____
Its

(LESSOR)

SAFEMAY STORES, INCORPORATED
(a Maryland corporation)

By Brian E. McLaughlin
Its Assistant Vice President

By J. M. Whoman
Its Assistant Secretary

(LESSEE)



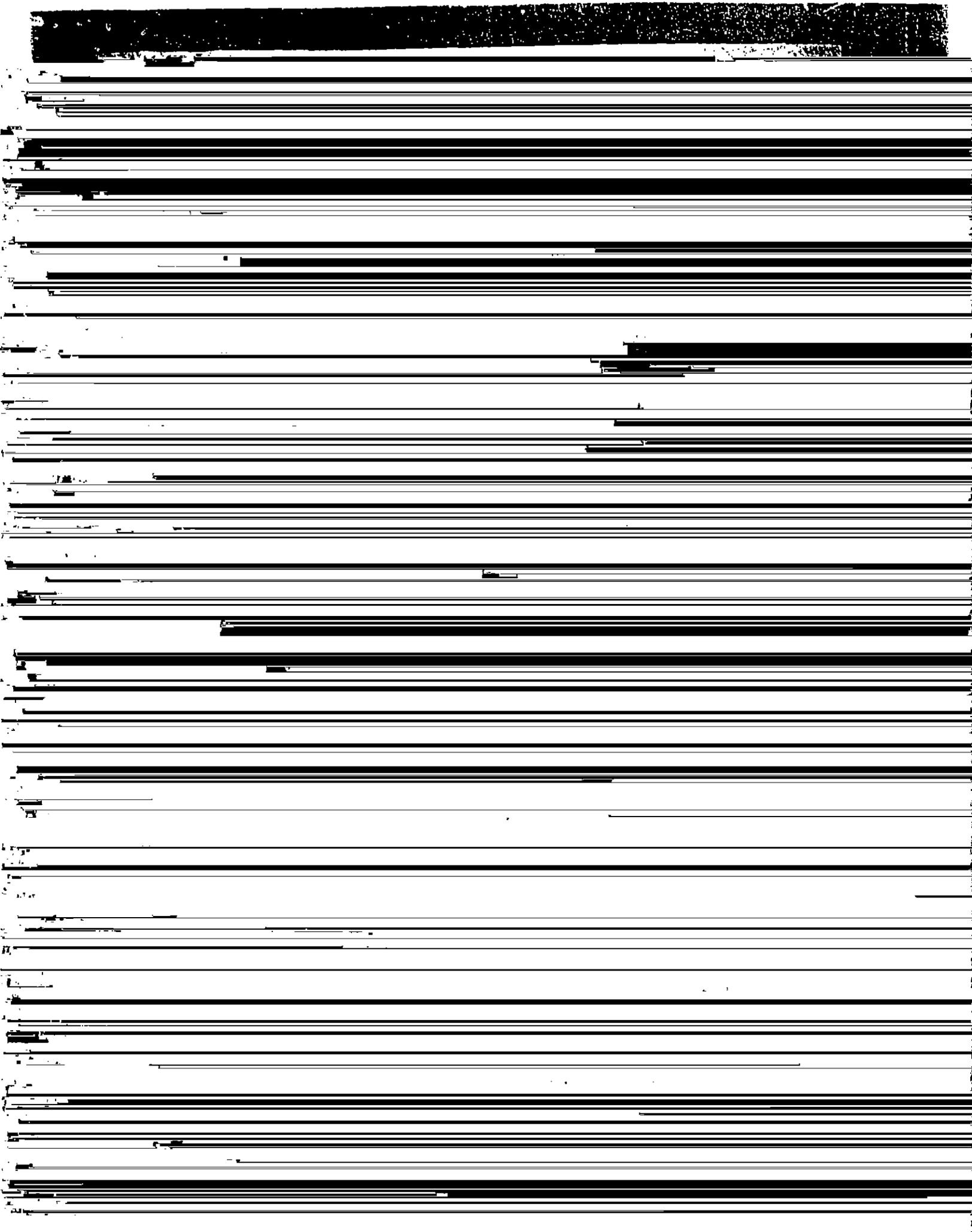
Store No. Div. El Paso
Location Truth or Consequences, NM
Document Date
Page 11 of Pages

Miscellaneous Book 29
Page 559Store No. 99
T or C, New MexicoASSIGNMENT AND ASSUMPTION AGREEMENT

For good and valuable consideration received by SAFEWAY STORES, INCORPORATED, a Delaware corporation and successor in interest to Safeway Stores, Incorporated, a Maryland corporation (herein, the "Assignor"), from FURR'S, INC., a Texas corporation (herein, the "Assignee"), the sufficiency of which consideration is hereby acknowledged by Assignor, Assignor has granted, sold, assigned, transferred, conveyed and delivered and does hereby grant, sell, assign, transfer, convey and deliver unto Assignee, its successors and assigns, all of Assignor's estate, right, title and interest in, to and under that certain Lease as modified, amended, supplemented and/or extended (collectively called the "Lease") as set forth on Exhibit B attached hereto and by this reference incorporated as a part hereof, whereby the lessor named therein has leased to Assignor an interest in real property (herein, the "Property") as more particularly described in the Exhibit A legal description attached hereto and by this reference incorporated as a part hereof, and, including without limitation, any option to purchase the Property or right of first refusal to purchase the Property granted to Assignor under the provisions of the Lease, all license agreements, warranty agreements, easements, reciprocal parking agreements and other agreements affecting or pertaining to the same.

To have and to hold the same unto Assignee, its successors and assigns, for the remainder of the term of the Lease, and Assignor does hereby bind itself, its successors and assigns, to warrant and defend, all and singular, the Lease unto the Assignee, its successors and assigns, for the remainder of the term of the Lease, against every person whomsoever lawfully claiming the same or any part thereof, subject to all matters of record in Sierra County, New Mexico which do not adversely affect the ability of Assignee to conduct a grocery business as hereto conducted by Assignor, and subject to the covenants herein by Assignee and the conditions herein contained and henceforth to be performed and observed.

In consideration of the foregoing assignment and for other good and valuable consideration received by Assignee from Assignor, Assignee hereby accepts said assignment subject to and upon the terms and conditions set forth in this instrument and the Lease. Assignee agrees that it shall have no claim or remedy against Assignor by virtue of the lessor's act or failure to act under the Lease from and after the Effective



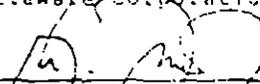
Miscellaneous Book 29
Page 56

IN WITNESS WHEREOF, the parties hereto have executed this instrument on October 21, 1987.

"ASSIGNOR".

SAFEMART STORES, INCORPORATED,
a Delaware corporation

By:


Patrick S. Freeman.

Miscellaneous Book 29
Page 565

Store No. 99
1500 N. Date
Truth or Consequences,
New Mexico

Exhibit B

Shopping Center Lease dated July 14, 1983 between V.P. Clarence Company and Safeway Stores, Incorporated, a Maryland corporation, as modified by First Shopping Center Lease Modification Agreement dated September 28, 1983 and Second Shopping Center Lease Modification Agreement dated February 1, 1985; Short Form Shopping Center Lease dated September 28, 1983 recorded October 27, 1983, Book 18, Page 295, records of Sierra County, New Mexico.

8285W

STATE OF NEW MEXICO)
County of Sierra) SS

I HEREBY CERTIFY that this instrument was filed for record on the 21st day of November, A.D., 1987 at 1:50 o'clock P.M. and duly recorded in book 29 page 565-565 of the Miscellaneous records fees \$17.00
Andrea K. Whitehead
County Clerk, Sierra County, N. Mex.
Dea Oliver

RETURN TO:
TITLE RESOURCES CORPORATION
2121 SAN JACINTO TOWER
SUITE 1660
DALLAS, TX 75201

8711950 / 52

Miscellaneous Book 29
Page 565

Store No. 99
1500 N. Date
Truth or Consequences,
New Mexico

Exhibit B

Shopping Center Lease dated July 14, 1983 between V.P. Clarence Company and Safeway Stores, Incorporated, a Maryland corporation, as modified by First Shopping Center Lease Modification Agreement dated September 28, 1983 and Second Shopping Center Lease Modification Agreement dated February 1, 1985; Short Form Shopping Center Lease dated September 28, 1983 recorded October 27, 1983, Book 18, Page 296, records of Sierra County, New Mexico.

8285W

STATE OF NEW MEXICO)
County of Sierra) SS

I HEREBY CERTIFY that this instrument was filed for record on the 27th day of November, A.O., 1987 at 1:50 o'clock P.-M. and duly recorded in book 29 page 565-565 of Miscellaneous records fees 1.00
Andrea B. Whithead
County Clerk, Sierra County, N. Mex.
De Olivas

RETURN TO:
TITLE RESOURCES CORPORATION
2121 SAN JACINTO TOWER
SUITE 1660
DALLAS, TX 75201

8711950/50



Krafsur Gordon Mott P.C.
Attorneys & Counselors At Law
P.O. Box 1322
El Paso, Texas 79947-1322

August 16, 2001

Billed through 08/16/01

Invoice number 4146-00001-004 PGOR

Mr. Ken Clarence/Lakeway Shopping Center
413 North Mesa
El Paso, TX 799901

Furr's - Chapter 11

FOR PROFESSIONAL SERVICES RENDERED

07/02/01	CAM	Conference with K. Clarence regarding results of hearing on Motion to Sell; receive and review proposed Agreed Order on Sale Motion; receive additional revised versions from Debtor's counsel throughout the day and review; discuss with client;	.70 hrs	165 /hr	115.50
07/03/01	CAM	Review Orders;	.25 hrs	165 /hr	41.25
07/06/01	LS	Open file and prepare conflict memo;	.40 hrs	65 /hr	26.00
07/10/01	CAM	Receive and review Debtor's Notice of Deadline to Object to the Debtor's Second Motion for Order Extending Time Within Which Debtor May Assume or Reject Unexpired Leases of Nonresidential Real Property;	.25 hrs	165 /hr	41.25
07/11/01	LS	Review and forward correspondence to K. Clarence regarding Furr's request to extend time to assume leases;	.20 hrs	30 /hr	6.00
07/11/01	CAM	Draft letter to client regarding Furr's Motion for Second Extension of Deadline by which to Assume or Reject Unexpired Leases;	.50 hrs	165 /hr	82.50
07/18/01	CAM	Receive and review Amended Motion for Order Approving Procedure Relating to the Section 365 Cure & Adequate Assurance Requirements for Assumption of Lease;	.25 hrs	165 /hr	41.25
07/19/01	CAM	Draft letter to client regarding and briefly explaining Amended Motion by Furr's for Order Approving Procedure Relating to the 365 Cure and Adequate Assurance Requirements for Assumption of Leases;	.25 hrs	165 /hr	41.25
07/20/01	LS	Review and forward correspondence regarding Amended Motion for Approval of Cure Procedures to K. Clarence;	.20 hrs	30 /hr	6.00

07/20/01	CAM	Finalize letter to K. Clarence regarding Furr's Amended Motion on Lease Assumptions;	.20 hrs 165 /hr	33.00
07/25/01	CAM	Conference with B. Jacobvitz regarding receipt of package from Fleming regarding assumption and assignment of store by Fleming; phone call to K. Clarence explaining same;	.30 hrs 165 /hr	49.50
07/27/01	CAM	Work on assumption and assignment leases;	1.00 hrs 165 /hr	165.00
07/30/01	CAM	Review documents related to assumption and assignment of T or C store locations; continue working on matter;	.75 hrs 165 /hr	123.75
08/01/01	CAM	Receive and review Amended Notice of Assignment; review matters for objection to Notice of Assignment based on confirmation of Safeway guarantee; review complete list of documents;	.25 hrs 165 /hr	41.25
08/01/01	HCM	Review of Debtor's Notice and Amended Notice of Assignment of Lease; review Lease documents; prepare Objection to Adequate Assurance Requirements on behalf of Lessor;	1.10 hrs 195 /hr	214.50
08/02/01	CAM	Revise and finalize Lakeway's Objection to Adequate Assurance Requirements for Assignment of Leases;	.25 hrs 165 /hr	41.25
08/06/01	CAM	Receive and review additional financial documents regarding S.C. Erica, Inc.; receive and review Notice of Proposed Cure Amounts, Objection Deadline, and Final Hearing; draft letter to client explaining same, including amounts, deadline to objection, and negotiation of revised cure amount;	1.25 hrs 165 /hr	206.25
08/06/01	DHEI	Conference with attorney Miranda, attorney Mott, and attorney Ginnings regarding assignment issues as they pertain to Texas law.	.25 hrs 90 /hr	22.50
08/06/01	LS	Review and forward correspondence regarding Notice of Cure Amounts to K. Clarence;	.40 hrs 30 /hr	12.00
08/07/01	CAM	Revise and finalize Exhibits for Objection Hearing; trip to Albuquerque; attend hearing on Objection to Adequate Assurance and Assignment Motion;	3.25 hrs 165 /hr	536.25
08/07/01	LS	Prepare exhibits for Objection hearing;	.90 hrs 65 /hr	58.50
08/08/01	CAM	Conference with K. Clarence regarding results of hearing on Objection to Adequate Assurance Motion (n/c);	.25 hrs 0 /hr	N/C
08/09/01	CAM	Conference with D. Thuma regarding form of order on objections to Adequate Assurance Motion;	.20 hrs 165 /hr	33.00

08/09/01	LS	Preparation of supporting documentation for Objections to Notices of Proposed Cure Amounts;	1.00 hrs	65 /hr	65.00
08/10/01	LS	Prepare correspondence to the U.S. Bankruptcy Clerk in New Mexico and file and serve Lakeway's Objection to Debtor's Notice of Proposed Cure Amounts;	.50 hrs	65 /hr	32.50

Total professional services					\$ 2,035.25

EXPENSES

07/12/01	Postage	.80			
07/20/01	Copies	6.40			
07/20/01	Postage	.57			
07/27/01	Copies	5.80			
08/06/01	Copies	.40			
08/06/01	Copies	2.00			
08/07/01	Copies	23.60			
08/07/01	Delivery/Pickup	5.00			
08/10/01	Postage	.80			
08/10/01	Postage	1.02			
08/10/01	Fax	8.00			
08/10/01	Fax	8.00			
08/10/01	Long Distance	.81			
08/10/01	Long Distance	.81			
08/13/01	Travel Expense - Taxi (Albuquerque)	12.70			
08/14/01	Copies	.20			
08/14/01	Postage	.34			
08/15/01	Copies	.20			
08/15/01	Copies	.20			
08/15/01	Postage	.34			
08/15/01	Postage	1.95			
08/15/01	Long Distance	1.62			

Total expenses					\$ 81.56

SUMMARY OF AMOUNTS NOW DUE

H. Christopher Mott	1.10 hrs	195 /hr	214.50		
Carlos A. Miranda	.25 hrs	0 /hr	N/C		
Carlos A. Miranda	9.65 hrs	165 /hr	1,592.25		
David Heidenreich	.25 hrs	90 /hr	22.50		
Lourdes N. Spears	.80 hrs	30 /hr	24.00		
Lourdes N. Spears	2.80 hrs	65 /hr	182.00		

Current Professional Servic	14.85 hrs		\$ 2,035.25		

Mr. Ken Clarence/Lakeway Shopping Center
Invoice number 4146-00001-004 PGOR

PAGE 4

Copies		38.80
		16.00
Long Distance Calls		3.24
Postage		5.82
Delivery/Pickup		5.00
Travel Expense		12.70

Current Expenses	\$	81.56

Total Charges for this invoice	\$	2,116.81

Outstanding balance does not reflect payments received
after July 31, 2001. Please accept our thanks if
payment has been mailed.