

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.,

Case No. 11-01-10779 SA  
Chapter 11

Debtor.

**CONFIDENTIALITY PROTECTIVE ORDER**

This matter came before the Court upon the motion of the Debtor, Furr's Supermarkets, Inc. ("Debtor"). The Court being sufficiently advised, finds: (i) the notice given of such motion was appropriate in the circumstances, (ii) on July 3, 2001, the Court entered an order (the "Sale Order") approving the Debtor's sale of assets to Fleming Companies, Inc. ("Purchaser") under an Asset Purchase Agreement, dated June 25, 2001 (the "APA"), a copy of which is attached to the Sale Order; (iii) under the APA, Purchaser has the right to direct that Debtor assign (subject to Court approval) unexpired leases relating to store properties directly to Third Party Purchasers (as defined in the APA) designated by Purchaser, or to Purchaser; (iv) Third Party Purchasers require, as a condition to providing sensitive, confidential, competitive, proprietary financial information to store lessors and equipment lessors (together "Lessors"), that such information be protected from disclosure to third parties; (v) it is necessary that Third Party Purchasers provide such information to Lessors so they may evaluate whether adequate assurance of future performance by the assignee of the lease is provided, within the meaning of Bankruptcy Code §365(f)(2); and (vi) entry of this order is appropriate;

IT IS THEREFORE ORDERED THAT:

1. Documents Protected. All Documents, as hereafter defined, produced by Third Party Purchasers to Lessors and the Debtor in connection with a request by the Debtor in this bankruptcy case to approve the assignment of a lease to a Third Party Purchaser (the “§365(f) Litigation”), which the Third Party Purchaser designates as Confidential, shall be used by the party or person receiving the Document for purposes of the §365(f) Litigation only, and for no other purpose whatsoever, and shall not, except as hereafter provided, be intentionally disclosed, made available, or disseminated in any manner. Such Documents may be disclosed only to officers and directors of, and persons employed by, the Lessors and Debtor who have a need to know such information in connection with the §365(f) Litigation, and their respective counsel, independent consultants or experts; provided such persons comply with paragraph 9. Such persons may make copies of the Documents only for the purpose of using the Documents in connection with papers filed with the Court or offered as exhibits or for the purpose of furnishing a copy to the persons identified above. In addition, such Documents may be disclosed by a Lessor to its lender(s) if required by the terms of an agreement between the Lessor and such lenders, so long as the lenders agree to keep the Documents confidential, and to comply with paragraph 8 below. If any lender objects to this confidentiality requirement, the Court will hold a hearing on the matter on short notice.

2. Document Defined. “Document” for the purpose of this Order includes

(a) All documents designated by a Third Party Purchaser as Confidential containing information disclosing any aspect of the financial condition of a Third Party Purchaser, including but not limited to financial statements and income tax returns, and includes originals, duplicates and any memoranda, notes, reports, compilations, and summaries that quote from, summarize or are derived in whole or in part from any

information described in any Document which has been designated Confidential; whether in paper, electronic or other form,

(b) Testimony, including the transcripts thereof, of any witness given in depositions or proceedings in the §365(f) Litigation that quote from, summarize or are derived in whole or in part from any information described in any Document which has been designated Confidential; and

(c) Pleadings and other papers, including discovery papers, in the §365(f) Litigation, that quote from, summarize or are derived in whole or in part from any information described in any Document which has been designated Confidential.

3. Designation of Documents. Any Third Party Purchaser may designate as Confidential any documents it provides to a Lessor and the Debtor containing information disclosing any aspect of the Third Party Purchaser's financial condition, including but not limited to financial statements and income tax returns. Any Document produced as Confidential shall be marked accordingly and shall be subject to the terms of this Order.

4. Designation of Testimony. Any Third Party Purchaser may designate as Confidential any testimony in deposition or in court in the §365(f) Litigation that quotes from, summarizes or is derived in whole or in part from any information described in any Document which has been designated Confidential. Such designation may be made by notifying the reporter, or court, that the testimony is confidential. Any such designation must be in good faith.

5. Pleadings And Exhibits. All Documents filed in this case or offered in evidence that are designated and marked as Confidential shall be treated as confidential by the Clerk of the Court unless otherwise ordered by the Court. Such Documents shall be filed in an envelope endorsed with the style of the case, the title or a description of the type of pleading being filed, and a statement substantially in the following form:

“This envelope contains Documents designated as (CONFIDENTIAL) and is not to be opened nor the contents thereof disclosed except by order of the Court. Filed the \_\_ day of \_\_, 2001, by \_\_\_\_\_, attorney for \_\_\_\_\_.”

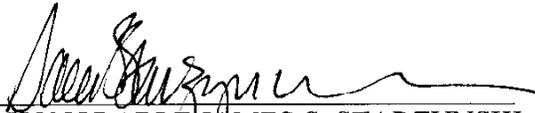
6. Deposition Procedures. Any depositions taken in the §365(f) Litigation shall be subject to this Order unless waived by the Third Party Purchaser producing Documents. Depositions taken subject to this order shall be taken without any person in attendance other than the deposition reporter, the deposition witness, counsel for the witness, and counsel for the Debtor, Third Party Purchaser, Lessor and Purchaser. The reporter shall agree that no copies of the deposition shall be made for, delivered, or made available to any person except such counsel, the court, and the deposition witness when requested, and shall further agree to maintain a record of the name and address of each person to whom copies are delivered.

7. Advice To Client. Nothing in this Order shall prevent or otherwise restrict any counsel from rendering advice to her or his client and, in the course thereof, relying generally upon his examination of Documents designated Confidential.

8. Return Of Confidential Documents. Within 30 days after the conclusion of the §365(f) Litigation by settlement or final judgment or final order, if the Court does not approve the assignment of a lease to a Third Party Purchaser, all Documents, including all copies (except those filed of record or submitted in evidence) relating to that Third Party Purchaser shall be returned to the Third Party Purchaser originally producing said Document. The provisions of this order shall survive the conclusion of the §365(f) Litigation.

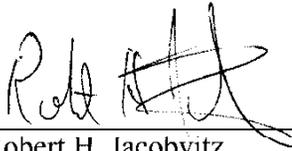
9. Parties Bound. All persons including counsel and their employees, parties hereto and their respective officers and employees, independent consultants or experts and witnesses, who are allowed access to or receive communications regarding any Document designated as Confidential shall execute a written undertaking that the recipient of the

disclosure has been furnished a copy of this Order and understands that he or she is bound by its terms.

  
THE HONORABLE JAMES S. STARZYNSKI  
UNITED STATES BANKRUPTCY JUDGE

Submitted by:

JACOBVITZ THUMA & WALKER  
a Professional Corporation

By:   
Robert H. Jacobvitz  
David T. Thuma  
500 Marquette N.W., Suite 650  
Albuquerque, New Mexico 87102  
(505) 766-9272  
(505) 766-9287 (fax)

- and -

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP  
300 South Grand Avenue, Suite 3400  
Los Angeles, California 90071-3144  
(213) 687-5000

Attorneys for the Debtor in Possession

I hereby certify that a true and correct copy  
of the foregoing was either electronically  
transmitted, faxed, delivered or mailed to  
the listed counsel and parties on:

JUL 23 2001

Mary B. Anderson