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U.S. BANKRUPTCY COURT  
ALBUQUERQUE N.M.

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

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In re : 01-44- ( ) **11-01-10779-SA**  
FURR'S SUPERMARKETS, INC., : Chapter 11  
Debtor. :  
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DECLARATION OF RICHARD LEVIN UNDER 11 U.S.C. §§ 327, 329  
AND FED. R. BANKR. P. 2014 IN SUPPORT OF APPLICATION FOR ORDER  
APPROVING RETENTION OF SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM LLP AND AFFILIATED LAW PRACTICE  
ENTITIES AS GENERAL BANKRUPTCY COUNSEL

I, Richard Levin, declare that:

1. I am a member of Skadden, Arps, Slate, Meagher & Flom LLP,  
300 South Grand Avenue, Los Angeles, California 90071, and an attorney in good  
standing to practice in the State of California. I submit this declaration in support of  
the Application, dated February 7, 2001, of Furr's Supermarkets, Inc., debtor and  
debtor-in-possession in the above-captioned cases (the "Debtor"), for an order under  
sections 327 and 329 of the Bankruptcy Code, and Federal Rule of Bankruptcy  
Procedure 2014, approving the Debtor's employment of Skadden, Arps, Slate,  
Meagher & Flom LLP and its affiliated law practice entities (collectively, "Skadden,  
Arps") as its attorneys. Except as otherwise indicated, I have personal knowledge of

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the matters set forth herein and, if called as a witness, would testify competently thereto.<sup>1</sup>

2. Jay Goffman and I are the Skadden, Arps partners principally responsible for this engagement. Copies of our biographical profiles and the firm's resume are attached as Exhibit A to this Declaration

3. Skadden, Arps has extensive experience and knowledge in the field of debtors' and creditors' rights and complex business reorganizations under chapter 11 of the Bankruptcy Code. The firm has frequently represented large chapter 11 debtors. We are familiar with the panoply of bankruptcy and non-bankruptcy issues that can arise in a complex chapter 11 case. We believe that we have the expertise to advise the Debtor with respect to these matters. The firm is qualified to represent the Debtor in this case in a cost-effective, efficient and timely manner

#### **Services to be Rendered**

4. The Debtor has requested that Skadden, Arps perform the following services, among others:

- (a) advise the Debtor with respect to its powers and duties as debtor and debtor-in-possession in the continued management and operation of its business and properties;

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<sup>1</sup> Certain of the disclosures herein relate to matters within the knowledge of other attorneys at Skadden, Arps and are based on information provided by them.

- (b) attend meetings and negotiate with representatives of creditors and other parties in interest and advise and consult on the conduct of the case, including the legal and administrative requirements of operating in chapter 11;
- (c) take all necessary action to protect and preserve the Debtor's estate, including the prosecution of actions on its behalf, the defense of actions commenced against the estate, negotiations concerning all litigation in which the Debtor may be involved and objections to claims filed against the estate;
- (d) advise the Debtor with respect to corporate, labor, tax, transactional, and other legal issues that arise in the case,
- (e) prepare on behalf of the Debtor all motions, applications, answers, orders, reports and papers necessary to the administration of the estate;
- (f) negotiate and prepare on the Debtor's behalf a plan of reorganization, disclosure statement and all related agreements and documents, and take any necessary action on behalf of the Debtor to obtain the plan's confirmation;
- (g) advise the Debtor in connection with any sale of assets;
- (h) appear before this Court, any appellate courts, and the United States Trustee, and protect the interests of the Debtor's estate before these courts and the United States Trustee; and
- (i) provide all other necessary legal services and advice to the Debtor in connection with the chapter 11 case.

5. Subject to the Court's approval of the Application, Skadden, Arps is willing to serve as the Debtor's counsel and to perform the services described above.

**Connections with Parties in Interest on Non-Debtor Related Matters**

6. The Debtor requested that Skadden, Arps begin work on this chapter 11 case late last week. Accordingly, Skadden, Arps is still in the process of

conducting a computerized conflicts check. A supplemental declaration setting forth the results of this search will be filed as soon as the information becomes available. The statements that follow are made to the best of my knowledge, based on the information available to date.

7. In addition, a "disinterestedness questionnaire" will soon be circulated to the more than 1,400 legal professionals in the firm. Following its initial supplemental declaration, Skadden, Arps will file further supplemental declarations every 120 days regarding this retention if any additional relevant information comes to its attention as to which further disclosure is required or appropriate.

8. As set forth below, Skadden, Arps in the past has represented, presently represents, and in the future will likely represent certain creditors of the Debtor and other parties in interest, on matters wholly unrelated to the Debtor, the Debtor's chapter 11 case, or those entities' claims against or relationship to the Debtor.

9. Major Creditors and Parties-in-Interest. Skadden, Arps represents or has represented the following known creditors or their affiliates on matters unrelated to the Debtor: Bank of America; Fleet Bank; Credit Suisse First Boston; Windward Capital; Heller Financial, Inc.; and Metropolitan Life Insurance Company. Some of the foregoing creditors also hold equity interests in the Debtor.

10. Debtor's Professionals. Skadden, Arps represents, or has represented, certain of the Debtor's professionals, including PriceWaterhouseCoopers, on matters unrelated to the Debtor.

11. Skadden, Arps' representation of the above entities will not affect the firm's representation of the Debtor in this case. To the best of my knowledge, Skadden, Arps does not represent the above entities in any matters adverse and/or related to the Debtor or the Debtor's estate. Many of the firm's representations of the above clients consist of representations in episodic transactional matters.

12. Skadden, Arps is one of the largest law firms in the world and has a diverse client base. During the twelve-month period ended December 31, 2000, no single client of the firm represented more than 2.6% of the value of the time charged to client matters.

13. To the best of my knowledge, based upon its preliminary investigation to date, neither Skadden, Arps nor any attorney at the firm has a connection with the Debtor, its largest unsecured creditors, any other party in interest, the Debtor's accountants, the Debtor's attorneys, or holds or represents an interest adverse to the estate or the Debtor, nor does Skadden, Arps represent any other client in connection with this case.

14. To the best of my knowledge, based upon my preliminary investigation, neither Skadden, Arps nor any attorney at the firm is a creditor, an equity security holder or an insider of the Debtor.

15. To the best of my knowledge, based upon my preliminary investigation, neither Skadden, Arps nor any attorney at the firm is or ever was an investment banker for, or an attorney for an investment banker for, any security of the Debtor.

16. To the best of my knowledge, after my preliminary investigation, neither Skadden, Arps nor any attorney at the firm is or ever has been a director, officer or employee of the Debtor.

17. To the best of my knowledge, after my preliminary investigation, no attorney at Skadden, Arps is related to a United States Bankruptcy Judge for the District of New Mexico or to the United States Trustee for Region XX or any employee in the office thereof.

18. To the best of my knowledge, after my preliminary investigation, neither Skadden, Arps nor any attorney at the firm has an interest materially adverse to the interests of the Debtor or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in the Debtor or an investment banker specified in the foregoing paragraphs, or for any other reason.

19. Based on the foregoing, I believe that Skadden, Arps and the attorneys in the firm are "disinterested persons," as that term is defined at Bankruptcy Code § 101(14), and do not hold or represent any interest adverse to the Debtor's estate or the Debtor

**Professional Compensation**

20. During the year before the Petition Date, the Debtor paid Skadden, Arps approximately \$200,000 for services rendered. In addition, before the Petition Date, the Debtor and Skadden, Arps entered into an engagement letter (the "Letter Agreement," a copy of which is attached hereto as Exhibit B), setting forth the terms of this engagement.

21. In accordance with the Letter Agreement, the Debtor paid Skadden, Arps the sum of \$250,000, for application first, to the payment of the current outstanding bill, and second, to pay any fees, charges and disbursements incurred in connection with the preparation and filing of this chapter 11 case. Skadden, Arps will retain the remainder of this payment, if any, as a retainer to be refunded to the Debtor to the extent it exceeds any fees, charges, and disbursements, allowed by the Court, that remain unpaid at the end of the case.

22. The Debtor has requested that Skadden, Arps provide services under the firm's standard "bundled rate" structure, and, therefore, Skadden, Arps will not charge for certain staff, clerical and resource charges. Presently, the internal time

charges under the bundled rate structure range from \$445 to \$670 for partners, \$230 to \$415 for counsel and associates, and \$80 to \$160 for legal assistants and support staff. The internal time charges set forth above are subject to periodic increases in the normal course of the firm's business, often due to the increased experience of a particular professional.

23. Consistent with the firm's policy with respect to its other clients, Skadden, Arps will continue to charge the Debtor for all other services provided and for other charges and disbursements incurred in the rendition of services. These charges and disbursements include, among other things, costs for telephone charges, photocopying (at \$0.10 per page), travel, business meals, computerized research, messengers, couriers, postage, witness fees and other fees related to trials and hearings.

24. Charges and disbursements are invoiced in accordance with Skadden, Arps' Policy Statement Concerning Charges and Disbursements, a copy of which is attached to the Letter Agreement. Certain charges and disbursements are not separately charged for under the bundled rate structure, as described in the Letter Agreement.

25. The rates set forth above are the firm's standard internal time charges for work of this nature. These rates are set at a level designed to compensate

Skadden, Arps fairly for the work of its attorneys and legal assistants and to cover fixed and routine overhead expenses, including the items discussed above.

26. Skadden, Arps agrees to apply to the Court for allowance of compensation earned and reimbursement of expenses incurred in this case in accordance with applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, and orders of the Court. Skadden, Arps acknowledges that all compensation will be subject to this Court's review and approval, after notice and a hearing.

27. Except for such sharing arrangements among Skadden, Arps, Slate, Meagher & Flom LLP, its affiliated law practice entities and their respective members, Skadden, Arps has no agreement with any other entity to share any compensation received, nor will any be made, except as permitted under section 504(b)(1) of the Bankruptcy Code.

28. The Debtor has elected Jacobvitz Thuma & Walker ("Jacobvitz") to retain as New Mexico co-counsel to the Debtor in this case. Skadden, Arps will carefully coordinate with Jacobvitz throughout the pendency of this case and will use its best efforts to avoid any unnecessary duplication of effort.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 7th day of February, 2001, at Albuquerque, New Mexico.

  
Richard Levin



## **Richard B. Levin**

Richard Levin concentrates on corporate restructuring, insolvency and bankruptcy issues. His practice centers on the representation of corporate debtors – both in out-of-court workouts and in Chapter 11 – who are in need of financial reorganization or restructuring. Mr. Levin also represents acquirors in troubled company situations and significant special creditors in workouts and reorganizations. Mr. Levin has developed significant experience in guiding debtor and non-debtor clients through the difficult process of an insolvency restructuring or reorganization to achieve their goals, in structuring and negotiating complex deals against the backdrop of bankruptcy and, where necessary, in directing litigation in support of the negotiations.

### **Partner**

Los Angeles Office  
213.687.5940  
rlevin@skadden.com  
Corporate Restructuring

### **Education**

J.D., Yale Law School, 1975  
(Editor, Yale Law Journal)  
S.B., Massachusetts Institute of  
Technology, 1972

### **Associations/Affiliations**

Member, National Bankruptcy  
Conference; Chair, Drafting  
Committee; Member,  
Executive Committee

### **Authorships**

Member, Board of Editors and  
Author, **Collier on  
Bankruptcy**, (15th rev. ed.)  
Coauthor, with G. Triester, et  
al., **Fundamentals of  
Bankruptcy Law** (4th ed.  
1995)  
Author, "Towards a Model of  
Bankruptcy Administration,"  
44 **South Carolina Law  
Review** 963 (1993);  
"Bankruptcy Appeals," 58  
**North Carolina Law Review**  
967 (1980); "An Introduction  
to the Trustee's Avoiding  
Powers," 53 **American  
Bankruptcy Law Journal** 173  
(1979)

Mr. Levin's extensive knowledge of the bankruptcy laws comes from his service as counsel to a subcommittee of the House Judiciary Committee from 1975 to 1978, where he was one of the principal authors of the Bankruptcy Code and the Bankruptcy Reform Act of 1978. Mr. Levin has remained involved in bankruptcy legislative matters through his active membership in the National Bankruptcy Conference, a select organization of bankruptcy professionals that has acted as an informal advisor to Congress on bankruptcy law since the mid-1930s.

Before joining Skadden, Arps in 1997, Mr. Levin was a member of the Los Angeles insolvency and corporate reorganization firm of Stutman, Treister & Glatt for 16 years. While there, he successfully led the reorganization of Public Service Company of New Hampshire (the first public utility since the Depression to file for reorganization under the bankruptcy laws), which resulted in the payment in full of all creditors and the return to stockholders of over \$400 million in value. Mr. Levin also led the out-of-court restructuring of Tucson Electric Power Co. in the face of an involuntary bankruptcy petition that had been filed against the company, as well as the efforts of Southwestern Public Service Co. to acquire El Paso Electric out of its Chapter



bankruptcy court; and

- Leading the reorganization of the development partnership that owns the former Ambassador Hotel in Los Angeles, in the face of the Los Angeles Unified School District's efforts to acquire the property for a school through an abusive use of the condemnation power.

Mr. Levin has significant experience in evaluating and protecting against the bankruptcy risks in structured finance (securitization) transactions and leads the firm's structured finance bankruptcy opinion practice.

In addition, Mr. Levin has been active in non-restructuring matters. He has represented a successful Internet start-up and led the firm's team that has counseled the company through its early years and negotiated and documented the company's raising of over \$50 million in venture capital investments.

A frequent lecturer on bankruptcy law in continuing legal education programs, Mr. Levin serves on the Board of Editors and is an author for *Collier on Bankruptcy*, the leading bankruptcy treatise.

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### **Jay M. Goffman**

Jay M. Goffman represents major corporations, financial institutions, creditor committees, bank groups, bondholders, equity holders, investment funds and investors in all types of transactions and restructurings related to troubled company situations -- including Chapter 11 cases, out-of-court workouts, exchange offers, tender offers and prepackaged restructurings and acquisitions -- throughout the United States and the world.

#### **Partner**

New York Office  
212.735.2120  
Corporate Restructuring

#### **Education**

J.D., University of North Carolina at Chapel Hill, 1983 (with Honors; Member, *University of North Carolina Law Review*)

B.S., The State University of New York at Binghamton, 1980 (Chemical Psychobiology with an emphasis in Neurochemistry; Honor's Thesis, "The Sudden Infant Death Syndrome As Related to Fetal and Infant Brain Neurochemistry")

#### **Authorships**

Author, "A One-Day Prepack - The Ultimate Reorganization" and "Prepacks: The Restructuring Technique of the '90s," First Annual Prepackaged Restructuring Seminars (New York City, Chicago and San Francisco, 1996)

*Turnarounds & Workouts* selected Mr. Goffman as one of the top 10 bankruptcy lawyers in the country in its first annual survey in 1997, highlighting his innovative out-of-court restructuring for Evergreen International Aviation. At 39, he was the youngest lawyer among this select group. His work for Evergreen has also been profiled in *The Wall Street Journal*.

Often, Mr. Goffman has succeeded in devising creative solutions to complex bankruptcy and business reorganization problems in a wide range of industries. For example:

- his use of the fraudulent transfer laws has served as the basis for restructuring billions of dollars of debt of start-up wireless telecommunications companies, including the Chapter 11 cases of Pocket Communications, Inc., General Wireless, Inc. and NextWave, Inc., which involved over \$5 billion of aggregate debt; and
- in the 1997 out-of-court restructuring of Evergreen International Aviation, Mr. Goffman led a team which took a company on the verge of bankruptcy and completed a consensual restructuring and refinancing of

Coauthor, with Matthew P. Herenstein, "Bankruptcy As a Business Tool: The One-Day Prepack Beckons," *The 1996 Bankruptcy Yearbook and Almanac*

with John R. Ashmead, "Deregulation or Bust? Financial Restructuring Can Be Problematic Under Chapter 11. Pre-Packaged Bankruptcy Saves Time and Money," *Public Utilities Fortnightly* (May 15, 1995)

with Harvey R. Miller, "Good Faith: The Elusive Ever Lurking But Not Defined Scarlet Pimpernel of Bankruptcy:"

with Harvey R. Miller, "The Continuing Voyage of Letters of Credit in Bankruptcy Cases - Is Twist Cap Still Alive?" (New York University School of Law, Bankruptcy Seminar, 1986)

all of the company's debt, preserving 100% of the equity and setting the stage for future growth. (Evergreen continues to be a client of Mr. Goffman and is now one of the leading companies in its industry).

Mr. Goffman also has led several of the landmark prepackaged Chapter 11 cases ("Prepacks") over the past decade, including:

- the multibillion dollar restructuring of Memorex Telex Corporation and its affiliates in 1991, which was the first successful Prepack of an international company (operating in 32 countries worldwide) and effected through a 32-day Chapter 11 case (a speed record at the time);
- the 1992 reorganization of In-Store Advertising, the first successful "prepackaged cramdown" (completed in a 29-day Chapter 11 case, yet another record); and
- the 1993 restructuring of Harvest Foods and its affiliates, including an acquisition by the debtor (accomplished in 85 days from its inception, with a 16-day Chapter 11 case, again, both new records for efficiency).

In addition, Mr. Goffman has represented numerous debtors, creditors and investors in numerous non-prepackaged restructurings, including serving as debtor's counsel in the Chapter 11 case of Olympia & York World Financial Center Finance Corp., one of the largest real estate restructurings in history.

In his early years of practice, Mr. Goffman practiced at Weil, Gotshal & Manges and thereafter at O'Sullivan, Gracy & Karabell LLP, where he founded and headed the Business Reorganization Department. He has participated as debtor's counsel in many of the major Chapter 11 cases of the 1980s, including Texaco, Eastern Airlines, and Drexel, Burnham, and in successful out-of-court workouts such as Offshore Logistics. Mr. Goffman also represented major creditors, creditor committees and/or lenders in the Chapter 11 cases of Allegheny International/Sunbeam, U.S.

Lines, Sharon Steel and Atlantic Computer Systems.

Before joining Weil, Gotshal, Mr. Goffman represented Saxon Industries in its successful restructuring, another major Chapter 11 case of the 1980s.

Mr. Goffman has published a variety of articles and lectured on numerous restructuring topics, including Prepacks, restructuring in the utility industry, lender liability, loan documentation and basic bankruptcy analysis.

He assisted the National Bankruptcy Review Commission with respect to potential legislative amendments regarding Prepacks and shortly thereafter cochaired a committee of premier bankruptcy lawyers addressing potential bankruptcy legislation. Mr. Goffman is also a member of several professional organizations, as well as a director of The Partnership for the Homeless, a charitable organization in the New York City area.

# Overview

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## The Skadden, Arps Philosophy

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Skadden, Arps was founded in 1948 by Marshall H. Skadden, Leslie H. Arps and John H. Slate. The three attorneys, quite different in personality and temperament, shared a vision of the firm that continues today: a commitment to professionalism and excellence in an atmosphere emphasizing teamwork, flexibility, collegiality and responsiveness. The goal of Skadden, Arps, Slate, Meagher & Flom LLP and its affiliates (collectively referred to as "Skadden, Arps" or the "firm") is to provide high-quality and cost-effective legal service through attention to client relationships, careful engagement management, practice and geographic diversity, and investment in people and technology. Client needs always come first at Skadden, Arps. We work hard to instill this attitude in all of our attorneys and staff, recognizing that capable and dedicated people are the firm's most valuable asset. Consequently, we invest substantial time and effort in the hiring and training of our attorneys and staff.

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#### **Keeping Costs Down**

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The firm is committed to delivering work product to clients in the most timely and cost-efficient manner. Our state-of-the-art computer network links all of the firm's 22 offices around the globe and enables our attorneys to access documents and share information quickly and accurately without sacrificing confidentiality or security of information. Other ways we are helping clients to contain legal costs include:

- using nonlawyer professionals, such as antitrust economists and trade and energy specialists, when appropriate;
- using litigation support personnel and computer programs to increase efficiency in handling and organizing litigation documents;
- encouraging clients to employ various forms of alternative dispute resolution, when appropriate, to resolve disputes and avoid costly litigation.

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**Our Domestic and International Clientele**

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With approximately 1,450 attorneys in 22 offices, Skadden, Arps is one of the largest law firms in the world. Our diversified practice enables us to offer the specific legal advice our clients need to compete more effectively in today's complex, heavily regulated business environment. In the United States, we represent a broad spectrum of clients, from small high-technology start-up companies to nearly one-half of the *Fortune* 250 industrial and service corporations, as well as many financial and governmental entities.

Since the firm's first non-U.S. office opened in 1987, Skadden, Arps has expanded into major financial centers, as well as emerging market economies, around the globe. International matters constitute a growing percentage of the firm's business, as U.S. companies seek new investment opportunities abroad and governments worldwide move to privatize state-owned industries. Reflecting this new global marketplace for legal services, the firm now has a total of 11 offices in Asia, Australia, Canada and Europe, in addition to our 11 U.S. offices, and substantial practices in areas such as Latin America and Israel.

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**The Skadden, Arps Practice Areas**

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# *A Diversified Practice*

## **PRACTICE AREA | Corporate**

The depth and comprehensive scope of Skadden, Arps's corporate practice stem from the diverse experience of our attorneys. The firm's capabilities have been reflected over the years in numerous surveys of the legal profession. For example, in every year since 1984, when *The National Law Journal* began its survey of "Who Represents Corporate America," Skadden, Arps has been named by more *Fortune* 250 industrial and service corporations than any other law firm as one of the outside counsel they used most frequently.

**MERGERS AND ACQUISITIONS** In 15 of the 17 years in which *The American Lawyer* has published its annual "Corporate Scorecard," Skadden, Arps has placed first among law firms as handling the greatest number of the largest M&A deals. The firm's M&A practice also encompasses many medium-sized and smaller transactions, including those for middle-market and emerging technology companies. Our attorneys represent U.S. and non-U.S. clients in negotiated transactions, including mergers, stock or asset purchases, leveraged buyouts and post-buyout transactions, as well as contested transactions such as tender offers, proxy fights and other transactions involving changes in corporate control. We handle recapitalizations and restructurings, including spin-offs, divestitures and other techniques for maximizing value. Skadden, Arps also assists clients in acquisitions of financially troubled companies. We have groups of attorneys within our M&A Department that handle industry-specific

*The firm's reputation was built on our mergers and acquisitions practice — the foundation of Skadden, Arps's growth and prestige. Today, our firm has diversified into more than 40 distinct areas of practice across a spectrum of industries.*

M&A work involving banks and thrifts, as well as insurance, utilities, and high tech and communications companies.

**SECURITIES** In addition to the firm's finance practice, our attorneys regularly advise clients on federal securities laws, including matters involving Securities and Exchange Commission regulatory investigations, SEC enforcement actions, arbitration proceedings, and SEC issues involving broker-dealers, investment bankers and others. We provide interpretive advice on questions regarding securities trading and distributions, filing and reporting requirements, and compliance and disclosure obligations.

**COMPLIANCE AND ETHICS PROGRAMS** The firm's attorneys advise clients on the development and implementation of ethics and compliance programs, including management structures and control systems, to prevent and detect violations of law. A comprehensive compliance program may entail reviewing and revising existing policies, programs and procedures; drafting a code of business conduct and related policies; and structuring and documenting compliance oversight, reporting, auditing and monitoring procedures and training programs.

**PRACTICE AREA | *Litigation***

Skadden, Arps represents clients in federal and state trial and appellate courts, before administrative tribunals and in arbitrations and other dispute resolution procedures. Approximately 100 litigation partners and 360 litigation associates are based in the firm's offices worldwide. In the United States, our litigators have handled cases in the U.S. Supreme Court, all 13 U.S. Circuit Courts of Appeal and at least 78 of the 94 U.S. District Courts. Our litigators have also appeared on behalf of clients in state courts located in as many as 38 of the 50 states, including the highest courts of 13 states.

**SECURITIES LITIGATION** The firm represents corporations and their officers and directors, as well as outside professionals, including accountants and attorneys, who have been sued in class action and derivative lawsuits. This representation includes the defense against claims that a corporation has made false and misleading statements in violation of federal securities and/or state fraud laws. We frequently represent corporations, directors and officers in suits alleging violations of Section 10(b) of the Securities Exchange Act of 1934. We represent clients in "insider trading" cases under Sections 10(b) and 14(e) and "short swing" profits cases under Section 16 of the 1934 Act. We also have long represented underwriters and issuers in litigation under the Securities Act of 1933. We are active in the legislative arena of securities litigation

*The firm's general corporate practice encompasses many diverse aspects of business law, including:*

- Blue Sky*
- Business Trusts*
- Corporate Finance*
- Corporate Governance*
- Executive Compensation*
- Franchising*
- Joint Ventures*
- Lease Financing*
- Licensing*
- Partnerships*
- Private Foundations*
- Private Investment Funds*
- Public Finance*
- Shareholder Matters*
- Stock Exchange/SEC Matters*
- Structured Finance*
- Syndications*

*Approximately 100 litigation partners and 360 litigation associates are based in the firm's offices worldwide. In the United States, our litigators have handled cases in the U.S. Supreme Court, all 13 U.S. Circuit Courts of Appeal and at least 78 of the 94 U.S. District Courts.*

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reform and offer our clients seminars on the latest developments. In addition, we appear regularly before the Securities and Exchange Commission, various securities exchanges and state securities commissions in connection with informal inquiries, formal investigations and administrative proceedings.

**COMMERCIAL CONTRACTS** The firm's attorneys represent corporate clients and individuals in a wide variety of commercial disputes, including contract litigation, disagreements among shareholders and other corporate-related litigation, and in a wide range of other significant business disputes.

**ANTITRUST** Skadden, Arps's U.S. and international antitrust practice encompasses many significant issues of competition for businesses. The firm's antitrust attorneys work on civil and criminal cases in federal and state courts nationwide, and counsel and litigate for clients in connection with mergers, acquisitions and joint ventures. Our attorneys appear regularly before the U.S. Justice Department, the Federal Trade Commission and state attorneys general in connection with proposed business combinations. We also have experience in all forms of antitrust litigation in federal courts and at the FTC. The firm has a large sports practice that centers on advising the National Football League, the National Basketball Association, the National Hockey League, Major League Baseball and various sports teams in antitrust matters. In the European Union, our attorneys appear regularly before the EU Commission and national regulatory authorities.

**BANKING LITIGATION** The firm represents financial institutions in many different types of litigation, including actions challenging the validity of regulations, actions brought by regulators, and litigation stemming from shareholder and other internal corporate disputes. We represent these clients in federal and state courts, before various federal and state agencies, and in administrative proceedings.

**INTERNATIONAL LITIGATION** The firm works on commercial litigations, arbitrations and trade cases on behalf of, as well as against, non-U.S. entities. We utilize our international experience and rely on our numerous multilingual attorneys in the representation of non-U.S. plaintiffs and defendants in U.S. judicial proceedings. In addition, our familiarity with the rules and practices of the major arbitral institutions worldwide allows us to assist clients in international arbitrations. Skadden, Arps attorneys also serve as arbitrators on international arbitration tribunals. We also advise clients with respect to the enforcement in the United States of foreign arbitral and judicial awards, where appropriate, and on strategies for challenging such foreign awards.

In the practice of government enforcement litigation, the firm has represented defendants in fraud cases alleged to have had international ramifications. The firm has also established a significant practice counseling domestic and foreign clients with respect to the U.S. Foreign Corrupt Practices Act.

**MASS TORTS / INSURANCE LITIGATION** Skadden, Arps acts as counsel in large and complex cases, including class actions and multidistrict litigations, involving product defects or exposure to toxic substances. We represent manufacturers and

*The firm is experienced in handling contested matters involving:*

- Accountants' Liability
- Advertising
- Antitrust
- Banking
- Campaign Finance
- Commercial Contracts
- Computer Software
- Constitutional Law
- Copyrights
- Corporate/Fiduciary
- Corporate Restructuring
- Defamation and Libel
- Derivative Financial Products, Commodities and Futures
- Directors' and Officers' Liability
- Energy
- Entertainment
- Environment
- ERISA
- Ethics in Government
- Financial Fraud
- First Amendment
- Fraudulent Conveyances
- Government Enforcement Litigation
- Information Technology
- Insurance and Reinsurance
- Internet and E-Commerce
- Labor and Employment
- Mass Torts/Insurance Litigation
- Mergers and Acquisitions
- Non-Competition Agreements
- Patents
- Real Estate
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- Trusts and Estates
- Underwriters' Liability

distributors in various industries involving a broad range of products, including pharmaceuticals, medical devices, chemical products, building products, food products, industrial equipment, automobiles and consumer goods. The firm also acts as national coordinating counsel or local counsel in federal and state courts at the trial or appellate levels. We also have defended corporations in criminal prosecutions arising out of accidents allegedly caused by product or premises defects.

The firm represents insurance and reinsurance companies in insurance coverage and insurance sales practices litigation, including multiparty and class action litigation in state and federal courts.

**GOVERNMENT ENFORCEMENT / WHITE COLLAR CRIME** The firm's attorneys defend corporations and their officers, directors and employees in complex criminal investigations and trials, civil and administrative proceedings, and congressional investigations. The firm also defends present and former government officers and elected public figures in investigations being conducted by independent and special Counsel, congressional committees and other authorities. We represent clients in related civil and administrative matters, including investigations by the Securities and Exchange Commission, the New York Stock Exchange, bank regulatory authorities, and other departments, commissions and agencies, as well as *qui tam* claims and suspension/debarment actions. We also conduct internal investigations on behalf of boards of directors and special board committees.

**INTELLECTUAL PROPERTY** Skadden, Arps offers clients a full range of legal services relating to the protection of intellectual property, including litigation involving advertising, patents, trademarks, copyrights, idea misappropriation, trade secrets and unfair competition; patent and trademark prosecution; copyright registration; and technology agreements and other transaction-related services. Our Information Technology Group helps address the specific intellectual property needs of our computer and technology clients.

**ALTERNATIVE DISPUTE RESOLUTION** The firm assists clients in resolving disputes without litigation through various alternative dispute resolution procedures, including nonbinding and binding arbitration, mediation, mini-trials, summary jury trials, expert fact-finding and early neutral evaluation. We help clients establish dispute handling systems for different categories of disputes. We also structure dispute resolution contract clauses for inclusion in client contracts, represent clients in individually tailored ADR proceedings and serve as arbitrators, mediators and other neutrals in ADR proceedings.

**PRACTICE AREA** : *Finance*

**CORPORATE** Skadden, Arps attorneys advise underwriters, issuers, selling security holders and purchasers in public and private financings. Our attorneys' experience extends to all types and combinations of debt and equity instruments and encompasses financings by U.S. and non-U.S. companies in markets worldwide. In a capital markets environment characterized by rapid change and innovation, our attorneys often structure new securities for clients in response to specific market needs.

**STRUCTURED** The firm's attorneys advise underwriters, issuers, credit enhancers and investors on the securitization of assets such as credit card receivables, home mortgages, automobile installment loan contracts, student loans, trade receivables, commercial mortgages and many others. Skadden, Arps also has assisted investment banking firms and U.S. and non-U.S. banks in establishing "conduit" companies to securitize trade receivables, commercial loans, credit card receivables and consumer debt obligations originated by numerous lenders.

**BANKING AND INSTITUTIONAL INVESTING** We represent commercial banks, insurance companies, pension funds, finance companies, investment and merchant banking firms, private investment funds and other corporate lenders, as well as borrowers and issuers of securities, in a wide range of domestic and cross-border financing transactions. These transactions include secured and unsecured loan agreements, letters of credit and other credit enhancement devices, note purchase agreements, project financing agreements, structured receivables arrangements, aircraft and other manufacturer financings, leveraged lease financings, loan syndications, acquisition financing arrangements, equity participations in the form of common and preferred stock investments, and offerings of convertible securities, warrants and partnership interests.

**LEASE FINANCING** The firm's attorneys handle the numerous tax and commercial law considerations that drive sophisticated facility and equipment lease financings, including cross-border leases. Our accomplishments include creating the lease-leaseback structure, the first use of a commission foreign sales corporation ("FSC") warehousing structure, designing the replacement lease structure and its first application to rail equipment, and the first use of an enhanced ("turbo") FSC lease by a life insurance company.

**PROJECT FINANCE** With one of the largest practices of any law firm focusing on international project finance transactions, Skadden, Arps has assisted clients in more than 40 countries in Asia, the Americas, Europe, Africa and Australia. Our transactions include the development, privatization, project financing and acquisition of many different types of infrastructure facilities, including those in the oil and gas, electric-generating and petroleum industries. Our domestic project finance practice has included several recent financings of sports stadiums and arenas.

**PUBLIC FINANCE** Skadden, Arps represents states, municipalities, nonprofit organizations, commercial banks, institutional investors and corporate borrowers in traditional and nontraditional taxable and tax-exempt public finance transactions.

*Our accomplishments include creating the lease-leaseback structure, the first use of a commission foreign sales corporation ("FSC") warehousing structure, designing the replacement lease structure and its first application to rail equipment, and the first use of an enhanced ("turbo") FSC lease by a life insurance company.*

**DERIVATIVE FINANCIAL PRODUCTS, COMMODITIES AND FUTURES** The firm represents a broad range of parties in transactions involving highly tailored "over-the-counter" derivative financial products, advising commercial and investment banks and other dealers in the development of new products as well as major corporations, insurance companies and other end users of the products. The firm also represents clients in traditional commodities transactions and in connection with exchange-listed futures and options. In this regard, we provide services internationally to major exchanges, commercial banks, insurance companies, portfolio managers, investment banks, traders and advisors.

*The wide variety of languages spoken by the firm's attorneys and other professionals facilitates the negotiation of transactions and other matters on behalf of our clients.*

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**INVESTMENT COMPANIES, ADVISORS AND BROKER-DEALERS** The firm's attorneys advise clients on the structuring, formation, offering, operation and regulation of a wide range of registered and private domestic and offshore investment pools as well as other investment products, including tax-advantaged structures. We also counsel investment advisors, broker-dealers and banks on a wide variety of securities-related regulatory matters and provide assistance in connection with SEC investigations and proceedings.

- Arabic*
- Bengali*
- Bulgarian*
- Burmese*
- Cantonese*
- Czech*
- Danish*
- Dutch*
- English*
- Farsi*
- French*
- Gaelic*
- German*
- Greek*
- Gujarati*
- Haitian Creole*
- Hebrew*
- Hindi*
- Hungarian*
- Italian*
- Japanese*
- Korean*
- Mandarin*
- Norwegian*
- Persian*
- Polish*
- Portuguese*
- Romanian*
- Russian*
- Serbian*

**PRIVATE INVESTMENT FUNDS** A team of attorneys at Skadden, Arps focuses on organizing private investment funds for a broad spectrum of clients. These attorneys represent sponsors, investors and placement agents in connection with the formation and operation of pooled investment vehicles or funds. Unlike conventional mutual funds, private investment funds are designed to be exempt from registration under federal securities and commodities law. Our attorneys have experience with the full range of private investment activity, such as merchant banking and leveraged buyout funds, venture capital funds, offshore structured high-yield and mortgage derivative funds, bridge funds, "vulture" funds and funds tailored for specific industries, such as oil and gas, savings banks and insurance.

**PRACTICE AREA | *International***

**EUROPE** With offices located in London, Paris, Brussels, Frankfurt and Moscow, Skadden, Arps has handled matters in nearly every country in Western, Central and

ularly before the European Union Commission and national regulatory authorities. We also advise government and private-sector clients on rapidly evolving telecommunications laws and regulations in the European Union.

**ASIA** In addition to offices in Hong Kong, Beijing and Tokyo, the firm has an office in Singapore that handles matters for our clients in Indonesia, Thailand, Malaysia and Southeast Asia in general. We also have significant practices in South Korea, Pakistan and India.

The firm's work in Asia focuses primarily on capital markets and bank finance transactions, direct investments, joint ventures, asset and stock acquisitions, and project financing transactions, including power project development and other infrastructure work. Our attorneys have handled many public offerings involving the privatization of national telecommunications, power and other companies.

In "trailblazing" matters, Skadden, Arps has represented clients in the largest offering ever by an Indonesian concern that was also among the largest global Asian equity offerings outside of Japan, the first private power project in Indonesia, the first privatization by the Indonesian government, the first U.S. shelf registration by the People's Republic of China, the first registered public offering in the United States by the PRC, the first global stock offering of a Chinese company and the largest foreign investment in India to date.

*In Asia, the firm has been involved in matters in:*

- Bangladesh*
- China*
- Hong Kong*
- India*
- Indonesia*
- Japan*
- Malaysia*
- Myanmar*
- Nepal*
- Pakistan*
- The Philippines*
- Singapore*
- South Korea*
- Sri Lanka*
- Taiwan*
- Thailand*
- Vietnam*

**LATIN AMERICA** The firm's practice in this region includes mergers and acquisitions, joint ventures, cross-border debt and equity financings, privatization of government entities, trade regulation, telecommunications issues, tax matters and general business law advice. Our language skills and relationships with local law firms and financial advisors have been important elements in the development of this rapidly expanding practice.

*Our attorneys have handled many public offerings involving the privatization of national telecommunications, power and other companies.*

**ISRAEL** Skadden, Arps has a substantial practice involving the representation of Israeli companies engaged in merger and acquisition, financing and other activities in the United States, as well as investors in Israeli companies. We have acted as counsel to underwriters or issuers in many financings by Israeli or Israel-related companies, established funds to invest in Israeli companies and represented clients in litigation involving Israeli companies. A number of our attorneys are thoroughly familiar with the legal structure, business environment and political system in Israel, and several have been admitted to the bars of both Israel and New York and are fluent in Hebrew and English.

**CANADA** The firm has a Toronto office and represents Canadian clients on cross-border U.S. legal matters. We counsel issuers and underwriters in cross-border public and private debt and equity offerings by Canadian entities in the U.S., Eurodollar and other world securities markets, including issues relating to the Multijurisdictional Disclosure System (MJDS). We act as U.S. acquisition counsel to Canadian public companies and advise on both hostile and consensual

cross-border transactions. We also represent Canadian clients in areas such as banking and financial services, joint ventures, real estate, international trade, telecommunications, intellectual property and litigation.

**AUSTRALIA AND NEW ZEALAND** In connection with international transactions involving Australian and New Zealand companies, we advise clients on matters of U.S. law, international law and conflicts of law. The firm has a Sydney office, and our experience enables us to advise local clients with regard to cross-border capital financings and mergers and acquisitions.

#### PRACTICE AREA | *Privatizations*

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We have assisted in the development and implementation of privatization programs, while helping to reconcile the divergent business, political and social objectives inherent in the commercialization process. Assisting with the conversion from a state-owned to a private market structure, we have helped draft the appropriate regulatory framework for the long-term operation of various sectors, as well as regulations that take into account the unique problems created during the transitional period when state-owned firms are privatized. Our global network of offices gives us a distinct advantage in coordinating the cross-border elements of these transactions. In particular, we have experience in the privatization of companies in the petrochemical, telecommunications, energy, real estate, utility, manufacturing, automotive, airline, retail, pharmaceutical and food industries.

#### PRACTICE AREA | *Corporate Restructuring*

The firm represents debtors, creditors, committees, acquirors, investors and others in Chapter 11 bankruptcy cases, including "prepackaged" and "pre-arranged" reorganizations, and in nonjudicial debt restructurings, acquisitions, debtor-in-possession financings, bankruptcy-related litigation and other debtor/creditor matters. Skadden, Arps also advises financially healthy companies on implementing changes to their capital or corporate structures designed to enhance enterprise value.

#### PRACTICE AREA | *Regulatory/Legislative*

**INTERNATIONAL TRADE** The firm represents and advises U.S. and non-U.S. clients in international trade matters and litigation. In the United States, we represent major U.S. manufacturers as petitioners in litigation to stop foreign imports of unfairly priced or subsidized goods. We also defend U.S. manufacturers in trade litigation brought by foreign manufacturers and governments in Mexico, Canada, and other foreign countries. Our attorneys in Washington, D.C., many of whom held positions in Congress and the Executive Branch, also represent U.S. clients in efforts to maintain fair trade laws and regulations domestically, and in negotiations and dispute settlement proceedings under the North American Free Trade Agreement (NAFTA) and before the World Trade Organization. In addition, we represent U.S. manufacturers and service providers seeking assistance to secure fair access to foreign markets.

*The firm has represented or is currently representing clients involved in the privatization of companies owned by the governments of:*

*Argentina  
Australia  
Austria  
Belgium  
Brazil  
Bulgaria  
China  
Colombia  
Czech Republic  
Denmark  
Finland  
France  
Germany  
Greece  
Hong Kong  
Hungary  
India  
Indonesia  
Ireland  
Israel  
Italy  
Malaysia  
Mexico  
Morocco  
New Zealand  
Norway  
Peru  
The Philippines  
Poland  
Portugal  
Romania  
Russia  
Slovakia  
South Africa  
South Korea  
Spain  
Sweden  
Thailand  
Trinidad and Tobago  
United Kingdom  
United States  
Venezuela*

**BANKING AND FINANCIAL INSTITUTION REGULATION** The firm advises financial institutions and their investors on regulatory and antitrust considerations and applications in connection with mergers and acquisitions, joint ventures, and commercial and banking transactions. The firm represents clients before the Federal Reserve Board, Federal Deposit Insurance Corporation, Comptroller of the Currency, Office of Thrift Supervision and other federal and state agencies. In addition, we advise clients on electronic banking, insurance, mutual fund, securities and related financial services.

In the enforcement area, the firm has represented institutions in connection with government investigations and enforcement actions and related private class actions concerning bank secrecy laws, fair lending and securities.

**INTERNATIONAL BANKING** We assist clients with the acquisition or establishment by non-U.S. banks of subsidiaries and joint ventures engaged in nonbanking activities in the United States; the acquisition or establishment by non-U.S. banks of banks, branches, agencies, New York investment companies, Edge corporations and representative offices in the United States; investments and acquisitions by U.S. banks outside the United States; and the ongoing operations of international banks.

**FINANCIAL INSTITUTIONS MERGERS AND ACQUISITIONS** The firm represents U.S. and non-U.S. banks, thrift institutions and investment banks in negotiated and contested mergers and acquisitions, thrift conversions, restructurings, joint ventures and other transactions. We also advise public companies and their boards of directors and investors with respect to proxy contests and acquisitions of controlling stock positions. In addition, we handle recapitalization transactions involving banks and thrifts and have assisted institutions and investors in acquiring depository institutions from the Federal Deposit Insurance Corporation and the Resolution Trust Corporation.

**TAX** Our Tax Department provides a wide array of tax services to a broad spectrum of clients. The department's primary areas of practice include counseling businesses and financial intermediaries in connection with domestic and international acquisitions, divestitures and reorganizations; financial products, including leasing, structured financings, hybrid entities and hybrid instruments; tax controversy matters, including audits, administrative appeals and litigation; international tax matters; and governmental and philanthropic organizations.

**LEGISLATIVE** The firm's Washington, D.C.-based attorneys and legislative specialists, several of whom were staff members of the U.S. Congress or served in positions in the Executive Branch, monitor legislative developments and

*In the United States, we represent major U.S. manufacturers as petitioners in litigation to stop foreign imports of unfairly priced or subsidized goods. We also defend U.S. manufacturers in trade litigation brought by foreign manufacturers and governments.*

**POLITICAL LAW** Our attorneys provide a wide range of legal services and advice, with particular emphasis on campaign finance, ethics and conflict-of-interest laws. Our work includes representation of political committees and businesses involved in the political process, corporate political action committees, independent political committees and candidate committees. The firm has represented presidential campaigns and prominent federal, state and local candidates of both major parties. In addition, we have represented clients before the Federal Election Commission and state election commissions.

#### **PRACTICE AREA | *Industry-Related Practices***

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**COMMUNICATIONS** Skadden, Arps represents licensees, investors, lenders, governments and customers in the areas of telecommunications services and equipment, mobile communications services, television and radio broadcasting, satellite services, cable television systems, and program production. In addition to traditional corporate and transactional advice, we analyze options and develop positions on issues for clients in regulatory policymaking and licensing proceedings before the Federal Communications Commission, state legislatures and agencies, the U.S. Congress and Executive Branch departments, and foreign governments. We also represent governments, bidders and investment banks in the privatization of non-U.S. telecommunications systems and new licensings.

**ENERGY** The firm's attorneys provide clients with a full range of legal services — such as corporate, project finance, government regulatory, litigation and legislative — relating to oil, natural gas, electric power and other energy sources. We represent energy producers, transporters, marketers, distributors and users worldwide. The firm has been particularly active in the development and financing of electric power projects throughout the world; complex oil and gas litigation; utility mergers, acquisitions and restructurings; pipeline certification and rate-making proceedings; and privatizations of major energy-related companies.

**ENVIRONMENT** We help clients adhere to stringent environmental laws and regulations. Our practice involves litigation in state and federal courts and in administrative proceedings. We have handled the defense of environmental civil penalty and criminal cases, lawsuits involving disputes over environmental contract terms, cost recovery actions under Superfund, natural resource damage, and other cases involving environmental statutes. We also provide regulatory counseling. Our attorneys negotiate environmental contract provisions and conduct due diligence audits in connection with mergers, acquisitions and project financings — both within and outside the United States. We also advise on international environmental and trade issues.

**GAMING** Skadden, Arps represents companies and investment banks involved in the financing, acquisition, restructuring, development and management of some of the largest projects in the gaming industry. The firm has handled numerous transactions involving land-based, riverboat and dockside casinos in established and emerging casino gaming markets within and outside of the United States. Our attorneys also advise issuers, underwriters and investors in every variety of gaming financing, including public and private transactions,

*Many Skadden, Arps attorneys apply the knowledge and experience gained from prior government service to their current work. The following government positions are among those formerly held by our attorneys and staff:*

**U.S. Department of Justice**

- U.S. Attorney, New Jersey
- U.S. Attorney, Washington, D.C.
- Assistant U.S. Attorney, District of Columbia
- Assistant U.S. Attorney, Southern District of New York
- Assistant U.S. Attorney, Eastern District of New York
- Assistant U.S. Attorney, Northern District of Illinois

**U.S. Department of Treasury**

- Assistant Secretary for Tax Policy
- Commissioner, Internal Revenue Service
- Chief Counsel, Internal Revenue Service
- Associate Chief Counsel, Internal Revenue Service

**U.S. Department of Defense**

- General Counsel
- Secretary, U.S. Army
- Judge Advocate, U.S. Air Force

**U.S. Department of Energy**

- General Counsel and Deputy Secretary
- Assistant General Counsel
- Assistant Secretary for International Affairs
- Deputy Assistant Secretary for Policy and Evaluation
- Deputy Administrator, Economic Regulatory Administration
- Chief of Staff to the Secretary

**U.S. Department of Labor**

- Regional Solicitor

**Office of the U.S. Trade Representative**

- Deputy U.S. Trade Representative
- Deputy General Counsel

**Office of the Independent Counsel**

- Associate Independent Counsel, Iran-Contra Investigation

**Commodity Futures Trading Commission**

- Chairman

**Environmental Protection Agency**

- International Policy Officer, Office of International Activities

high-yield and investment-grade debt offerings, initial public offerings and secondary equity sales.

**HEALTH CARE** Skadden, Arps represents hospitals and other health care service providers, pharmaceutical and biotechnology firms, medical device and equipment manufacturers, and companies in related businesses in mergers and acquisitions, joint ventures, public and private offerings of debt and equity securities, and venture capital transactions. We also advise health care clients in the areas of licensing, intellectual property, products liability and tax, as well as on a broad range of general corporate, securities law and litigation matters.

**INFORMATION TECHNOLOGY** Skadden, Arps has a diverse and wide-ranging practice in the information technology area, representing a spectrum of businesses from emerging growth companies to global multinational entities. The group covers North America's principal technology markets and has access to the firm's extensive global resources, including our London-based European practice. The firm routinely handles corporate transactions in such areas as venture capital; public offerings; mergers, acquisitions, joint ventures and strategic relationships; licensing; and outsourcing. We provide strategic legal advice on intellectual property and electronic commerce matters. In this area, we integrate our U.S. and European Union antitrust and trade regulation, communications, and tax practices. Our Litigation Department handles dispute resolution and litigation matters for companies in this area.

**INTERNET AND E-COMMERCE** Attorneys in our Internet and E-Commerce Group represent clients in virtually every sector of industry, including traditional businesses migrating to the Web, as well as Web-based businesses such as content providers, Web site developers and hosting companies, Internet service providers, domain name registrars, and infrastructure and network providers. We provide a broad range of corporate services (M&A, finance and strategic alliances) to these entities, and our attorneys routinely counsel clients on issues involving Web site development, trademark and domain names, patents, privacy and security. We have been closely involved in Internet policy setting, serving as general counsel to the Internet Society, the umbrella organization for several of the Internet standard-setting bodies.

**INSURANCE** Skadden, Arps's Insurance Group represents insurance and reinsurance companies and their financial advisors and underwriters in a wide variety of corporate transactions, including mergers and acquisitions, public and private financings, restructurings and reorganizations. In the area of corporate finance, our Insurance Group has handled numerous transactions for life, health, disability, workers' compensation, property and casualty, and financial guaranty insurance companies. Such transactions have included some of the largest initial public offerings of insurance companies to date, as well as numer-

*Federal Communications Commission*

- *Special Assistant to the Chief, Common Carrier Bureau*

*Federal Election Commission*

- *Associate General Counsel*

*Federal Energy Regulatory Commission*

- *Commissioner*
- *General Counsel and Deputy Secretary*
- *Chief of Staff and Senior Legal and Policy Advisor*

*Federal Reserve System*

- *Attorney, Board of Governors*

*Federal Trade Commission*

- *Acting Director, Bureau of Competition*

*U.S. Securities and Exchange Commission*

- *Chairman*
- *Acting General Counsel*
- *Deputy Director, Division of Enforcement*

*U.S. Senate*

- *Democratic Chief Counsel and Staff Director, Committee on Commerce, Science and Transportation*
- *Senior Counsel, Committee on Commerce, Science and Transportation*
- *Chief of Staff, Committee on Finance*
- *Deputy Staff Director and General Counsel, Committee on Labor and Human Resources*
- *Special Counsel, Select Committee on Ethics*
- *Legislative Director for Senator Lloyd Bentsen*

*U.S. House of Representatives*

- *Subcommittee Staff Director, Committee on Banking, Finance and Urban Affairs*

*U.S. Congress*

- *Legislation Counsel, Joint Committee on Taxation*

*U.S. District Court for the Northern District of Illinois*

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ous other offerings, including surplus note offerings for a number of mutual life insurers.

*State of New Jersey*  
• *Attorney General*

**REAL ESTATE** The firm represents developers, lenders, investment banks, and U.S. and non-U.S. investors. Our activities include work on the purchase, sale, construction, financing and operation of commercial, industrial, residential and retail projects throughout the United States and Europe; the public and private offering of various types of real estate securities; leasing on behalf of landlords and major tenants; real estate-secured lending; land use and other regulatory matters; real estate litigation; and restructurings on behalf of lenders, borrowers and joint venturers.

*Our labor attorneys have developed an innovative training series for clients designed to prevent sexual harassment in the workplace. Based on an interactive computer program, the series is also used by the firm to help educate employees about sexual harassment and its consequences.*

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**SPORTS** Skadden, Arps has been extensively involved in matters related to the professional sports industry, representing the four major sports leagues — the National Football League, the National Basketball Association, the National Hockey League and Major League Baseball — as well as individual team franchises and related entities. The attorneys in our Sports Group have significant experience in sports-related matters involving litigation, antitrust, labor relations and intellectual property, and have participated in landmark legal decisions in the industry. We have also assisted clients involved in the purchase and sale of professional sports franchises and have had a prominent role in financing new stadiums or arenas for numerous sports teams.

**UTILITIES** In the area of mergers and acquisitions, the firm's clients include electric and gas utilities, utility holding companies and investment banks. Our representation involves mergers, corporate organizations, proxy fights, acquisitions and dispositions, and derivative litigation and regulatory proceedings related to these transactions. We represent clients with respect to general defensive advice, holding company reorganizations, restructurings and strategic evaluation of potential acquisitions in the utility industry. We also represent electric and gas utilities in regulatory proceedings and litigation dealing with a wide range of nonmerger-related issues.

**PRACTICE AREA | *Employment Issues and Advice to Individuals***

**EMPLOYEE BENEFITS AND EXECUTIVE COMPENSATION** The firm's attorneys counsel corporate and individual clients on employee benefits, ERISA and executive compensation matters. The practice covers tax-qualified pension and profit-sharing plans, stock-option plans, employee stock ownership plans, executive and employee incentive arrangements, employment contracts and employee welfare benefit plans, as well as matters arising under ERISA, federal securities laws and related laws.

**LABOR AND EMPLOYMENT LAW** The firm represents and advises clients on labor and employment matters arising in representation proceedings, collective bargaining negotiations, arbitrations, litigation in state and federal courts, and administrative proceedings before such government agencies as the National Labor Relations Board, the Equal Employment Opportunity Commission, state human rights agencies, and the federal and state departments of labor. We also work on matters involving employment-at-will and claims of employment discrimination, including claims of sexual harassment and wrongful discharge. In addition, we advise on all labor and employment aspects of transactions, including the negotiation of new collective bargain-

ing agreements or the assumption of existing agreements as well as the preparation of employment and severance agreements. We also have handled the labor aspects of bankruptcy proceedings, including representation of companies before various state departments of labor.

**TRUSTS AND ESTATES** Skadden, Arps provides clients with in-depth planning, including the preparation of wills and trusts; designation of beneficiaries of insurance and employee death benefits; and analysis of the estate, gift and income tax consequences of an estate plan. Estate plans may also include the creation of insurance trusts, charitable dispositions, personal holding companies and family partnerships.

#### **PRACTICE AREA** *Pro Bono*

Skadden, Arps lawyers strongly believe in carrying out the obligation to assist through pro bono work those individuals and groups unable to afford legal services. The firm is a charter signatory to the American Bar Association Pro Bono Challenge, pledging to commit attorney time equivalent to at least 3% of the firm's billable hours to work on pro bono matters. Skadden, Arps attorneys — both litigators and nonlitigators — represent individuals and organizations of limited means in matters including not-for-profit incorporations; Social Security claims; housing and government issues; the preparation of wills; tort claims; real estate projects involving ownership for low-income tenants; criminal appeals; divorces for battered women; and employment discrimination and unemployment cases. Our attorneys also counsel nonprofit charitable and cultural organizations, and handle post-conviction representations in death penalty cases.

**FELLOWSHIP PROGRAM** Every year since 1988, Skadden, Arps has awarded funds to 25 of the nation's most outstanding law school graduates and judicial clerks to practice public interest law for a two-year period through the Skadden Fellowship Foundation. The Fellowship Program, established to reaffirm the firm's commitment to public interest law, has received widespread praise and recognition. Approximately 90% of program graduates have continued in the public service sector, leading organizations devoted to providing equal access to the justice system. In conjunction with the firm's 50th anniversary in 1998, we re-endowed the Fellowship Program for another 10 years.

*The firm's pro bono achievements have been nationally recognized and are reflected in awards we have received from:*

- Association of the Bar of the City of New York
- Sec. Tradek (House of Justice)
- Community Legal Aid Society of Wilmington
- D.C. Coalition Against Domestic Violence
- The Gay & Lesbian Alliance Against Defamation
- LAMBDA Legal Defense & Education Fund
- Lawyers Alliance for New York
- The Lawyers Division of the Judges and Lawyers Breast Cancer Alert
- Legal Aid Society of New York
- Legal Aid Society of San Francisco
- Legal Clinic for the Disabled in Chicago
- NAACP Legal Defense Fund
- New York State Bar Association
- N.Y.U. Public Interest Law Fellowship
- Pro Bono Advocates
- Public Counsel
- South Chicago Legal Clinic
- Washington Lawyers' Committee for Civil Rights
- Western Center on Law and Poverty
- Whitman-Walker Legal Services Program
- Volunteer Lawyers for the Arts
- Volunteers of Legal Service

## Corporate Restructuring

### Overview of the Practice Area

Skadden, Arps, Slate, Meagher & Flom LLP and its affiliates (collectively referred as "Skadden, Arps" or "the firm") represent debtors, creditors, committees, acquirors, investors and others in:

- Chapter 11 reorganization cases;
- "prepackaged" and "prenegotiated" Chapter 11 filings;
- non-judicial workouts and restructurings;
- acquisitions and other transactions involving highly leveraged companies;
- debtor-in-possession (DIP) financings;
- creditors' rights and bankruptcy-related litigation (e.g., attachment orders, setoff disputes, fraudulent transfers, preference, reclamation litigation and contested fee applications); and other debtor/creditor matters (e.g., exemption counseling and transactional advice).

More than 30 attorneys are members of Skadden, Arps's Restructuring and Bankruptcy Reorganization Department, including 11 partners and three counsel. An additional 100 attorneys from other departments within the firm, practising in areas such as tax, banking, corporate, litigation, real estate, securities, and mergers and acquisitions, also work on restructuring and bankruptcy-related matters. Because Skadden, Arps is a full-service law firm with experience in many different areas of the law (e.g., tax, environmental, ERISA, labor, products liability and energy), it can handle any complex restructuring or reorganization.

### Chapter 11 Reorganization Cases

**Debtor and Trustee Work.** Skadden, Arps has represented debtors and trustees in a number of large Chapter 11 reorganization cases, including:

- Levitz Furniture, Incorporated in Wilmington, Delaware;
- County Seat, Inc. in Wilmington, Delaware;
- Mid-American Waste Systems, Inc. in Wilmington, Delaware;
- Harvest Foods, Inc., Peter J. Schmitt Co., Inc., and Harvard Industries, Inc. in Wilmington, Delaware;
- Wang Laboratories, Inc. in Boston, Massachusetts;
- Ames Department Stores, Inc., United Merchants & Manufacturers, Inc., Victoria Creations, Inc., and Doe-Spun, Inc. in New York;
- The Reorganization Trustee for Cardinal Industries, Inc. in Columbus, Ohio; Great American Recreation, Inc. in Newark, New Jersey;
- Carter Hawley Hale Stores, Inc. in Los Angeles, California; and
- A.H. Robins Co., Inc., the defendant in thousands of Dalkon Shield products liability cases, in Richmond, Virginia.

### "Prepackaged" and "Prenegotiated" Chapter 11 Filings

Skadden, Arps has handled a number of "prepackaged" and "prenegotiated" plans, which allow a company to implement a quick restructuring that otherwise could take years to complete.

For example, Skadden, Arps represented The Southland Corporation in one of the earliest prepackaged bankruptcy reorganizations of an operating company in the United States. Southland's revised plan was confirmed by the U.S. Bankruptcy Court in Dallas only 120 days after the company

filed its Chapter 11 petition.

The firm represented TIE/communications, Inc. and 25 of its subsidiaries, which emerged from Chapter 11 only 72 days after filing a hybrid prepackaged reorganization plan; Edgell Communications and its parent, which emerged from bankruptcy only 31 days after filing prepackaged plans; and Smith Barney, Harris Upham & Co., Inc. as financial advisor to Memorex Telex Corporation, which emerged from Chapter 11 in 31 days under a prepackaged plan.

Skadden, Arps also represented UDC Homes, Inc., an Arizona-based home builder, in its prenegotiated Chapter 11 case in Delaware. Despite extensive litigation, UDC emerged from Chapter 11 in fewer than six months and resolved its litigation issues.

**Creditor Work.** The firm represents or has represented creditors and equipment lessors in a number of large Chapter 11 cases, including:

- Sunbeam Corporation and HFS in the Montgomery Ward reorganization;
- Apollo Real Estate Advisors, L.P. in the Olympia & York (U.S.A.) case;
- Bankers Trust Company in the Chapter 11 reorganizations of Bradlees Stores, Inc., The Grand Union Company, Larabee Wire Manufacturing Co., Inc., Finley, Kumble, and Color Tile;
- Blockbuster Videos in the Discovery Zone case;
- The Polaris Aircraft Income Funds in the Continental Airlines, Inc., Pan American World Airways, Inc., Trans World Airlines, Inc. and Midway Airlines, Inc. cases;
- Riddell Sports, Inc. in the MacGregor Sporting Goods, Inc. and Pursuit Athletic Footwear cases;
- M.F. Zukerman & Co., Incorporated in the Schmid, Inc. reorganization;
- GE Capital Corporation in the Eastern Airlines, Inc. case;
- Royal Bank of Canada in the Henry Birks Jewelers, Inc. and Birks International Chapter 11 cases;
- Heller Financial, Inc. in the Daisy Systems Corporation, Helder Industries, Inc., TAK Communications, Inc. and LBS Communications, Inc. cases;
- BNP Leasing Corp. in the Arochem reorganization case; Daimler-Benz affiliates in the Rocky Mountain Helicopters case;
- C&S Wholesale Grocers, Inc. in the Victory Markets, Inc. case; and
- The County of Los Angeles with respect to the Chapter 11 case of a major tenant of the county.

**Committee Work.** Skadden, Arps has substantial experience in the representation of creditors' committees. For example, we represented:

- creditors' committees in the Simmons Upholstered Furniture, Inc., Crowthers McCall Pattern, Inc., American Federation of Television and Radio Artists, and Nova Real Estate Investment Trust Chapter 11 cases;
- Union Pacific Resources Company as chair of the creditors' committee in the reorganization of Columbia Gas Transmission Corp.;
- J.C. Bradford as co-chair of the creditors' committee in the reorganization of First Merchants Acceptance Corp.;
- Apollo Advisors, L.P. as chair of the creditors' committee in the E-II Holdings, Inc. case;
- New York Life Insurance Company as chair of the creditors' committee in the Kaiser Steel Corporation Chapter 11 case; and
- First Fidelity Bank, N.A., New Jersey, as chair of the creditors' committee in the United States Lines, Inc. Chapter 11 cases.

**Non-Judicial Workouts and Restructurings**

**Debtor Work.** The firm has represented debtors or their financial advisors in non-judicial debt restructurings that involved billions of dollars of publicly and privately held debt securities. We have handled restructurings undertaken not only by financially distressed companies, but also by healthy companies seeking to retire debt at a discount, recapitalize or restructure operations. These transactions have involved refundings or renegotiations of privately held debt, issuer tender or exchange offers for publicly held debt securities, solicitations of bondholder consents to covenant relief, cash infusions from existing or new investors, and asset sales, swaps or spin-offs.

**Creditor Work.** Skadden, Arps represents commercial and investment banks, savings institutions, mutual funds and other financial institutions in their portfolio management of troubled credits. For example, the firm has represented:

- Heller Financial, Inc. in the restructuring of (i) debt of West Point Acquisition Corp.
- and West Point-Pepperell, Inc., (ii) credit facilities in connection with the acquisition of International King's Table, Inc. by The Horn & Hardart Company and (iii) loans to Keystone Convenience Company, Inc., operator of Wendy's Old Fashioned Hamburger Restaurant franchises in the greater New Orleans area;
- Bankers Trust Company in portfolio management matters, including the restructuring of debt of Charter Medical Corporation, W. Atlee Burpee Company and Safeguard Business Systems, Inc.;
- Prudential Securities, Inc. in its various roles as selling agent, asset monitor, general partner and financial advisor in more than 40 real estate limited partnerships and real estate investment funds sponsored by VMS Realty Partners;
- The Prudential Insurance Company of America in connection with a comprehensive restructuring of Van Camp Seafood Company, Inc.'s debt and equity securities;
- Shearson Lehman Brothers Holdings, Inc. in the restructuring of Prime Computer, Inc. (renamed Computervision Corporation), including the refinancing of Shearson Lehman's \$575 million loan to Prime Computer, and affiliates of Shearson Lehman in various other in- and out-of-court workouts;
- Chase Manhattan Bank, N.A. in the restructuring of a \$500 million non-recourse production payment to an affiliate of Union Textile Petroleum;
- Continental Partners Group in the restructuring of more than \$390 million of debt incurred by a leading equipment manufacturer and supplier to the fast food restaurant industry;
- The Federal National Mortgage Association in restructuring real estate mortgage loan obligations;
- New York Life Insurance Company in the restructuring of Langasco Energy Corporation and related oil and gas partnerships; and
- Union Bank of Switzerland in the debt restructuring of Beverly Enterprises, Inc. and Western Digital Corp.

In the area of non-judicial recapitalizations, exchange offers and restructurings, Skadden, Arps has represented the debtor or its financial advisor in those involving:

- Australian Bond Brewing Holdings Limited
- Cafeteria Operators, L.P.
- Coltec Industries Inc.
- Evergreen International, Inc.
- Financial Corporation of Santa Barbara

- Holiday Inns Inc.
- LVI Group Inc.
- Mellon Bank Corporation
- New World Entertainment
- Oak Industries, Inc.
- Occidental Petroleum Corporation
- SCI Television Inc.
- Saatchi & Saatchi Company PLC
- Savin Corporation
- Scovill Inc. and First Industries Inc.
- VMS Realty Partners
- Western Union Corporation
- Westwood One, Inc.
- Zapata Corporation

### **Acquisitions and Other Transactions Involving Highly Leveraged Companies**

The combination of Skadden, Arps's experience in mergers, acquisitions, restructurings and reorganizations enables the firm to represent buyers, sellers, investors and financial advisors in acquisitions and divestitures of insolvent and other highly leveraged companies or their assets or securities. The firm's tax attorneys play an integral role in planning and structuring these transactions as well. For example, the firm represented:

- Carter Hawley Hale Stores, Inc. in the first successful tender offer for trade claims and bonds in a large Chapter 11 case. More than 80% of the company's unsecured creditors and bondholders, holding more than \$400 million in claims, accepted a \$280 million debt tender offer by Chicago's Zell/Chilmark Fund, L.P. Thereafter, Carter Hawley Hale's plan of reorganization was confirmed by the Bankruptcy Court in Los Angeles;
- Hospitality Franchise Systems, Inc., an affiliate of The Blackstone Group, in its \$259 million purchase of the Days Inns Franchise System from Days Inns of America, Inc., a Chapter 11 debtor;
- Authentic Fitness Corporation in its acquisition of two swimwear lines from Taren Holdings Inc. as part of a reorganization plan;
- Spiegel, Inc. in winning bankruptcy court approval to acquire substantially all the assets of New Hampton, Inc.;
- United Air Lines, Inc. in its \$290 million purchase of Pan American World Airways, Inc.'s routes to London's Heathrow Airport and certain other assets, and its successful \$135 million bid for Pan Am's Latin American routes at an auction held in the New York bankruptcy court;
- United Air Lines, Inc. in its \$235 million bid, in TWA's Delaware bankruptcy case, for TWA's Chicago-O'Hare assets;
- Hasbro, Inc. in its \$490 million negotiated acquisition of Tonka Corporation pursuant to separate tender offers for Tonka's common stock and subordinated debentures;
- The Liberman family of Australia in the \$130 million sale of Victory Markets, Inc. to an investor group;
- An affiliate of AEG Aktiengesellschaft, a member of the Daimler-Benz AG group, in its \$50 million acquisition of Siliconix Inc. under a Chapter 11 reorganization plan;
- An investor group, including Joseph, Littlejohn & Levy Fund, L.P. and The Clayton & Dubilier Private Equity Fund IV Limited Partnership, in the acquisition of approximately 56% of the stock of CDK Holding Corporation, the parent of The Kendall Company, as part of the prepackaged bankruptcy reorganization of the companies;
- Joseph, Littlejohn & Levy Fund, L.P. in the purchase of \$55 million of equity securities of

Republic Health Corporation, as part of a comprehensive restructuring of the company.

Thereafter, Skadden, Arps represented the company (renamed OrNda Health Corp.) in the refinancing of its bank debt through a \$500 million public debt offering and in other matters:

- McKesson Corporation in its \$600 million acquisition of substantially all of the assets of Fox Meyer Drug and affiliated debtors in Delaware bankruptcy court, and in related post-acquisition litigation with Fox Meyer's non-debtor parent company;
- Questor Management as a potential acquiror in the Anacomp, Inc. bankruptcy case; and
- MFS WorldCom as a potential acquiror of U.S. One Communications.

### **DIP Financings**

In the Levitz Furniture, United Merchants, Victoria Creations, Ames, Carter Hawley Hale, Schmitt, Southland, TIE/communications, UDC and other cases, Skadden, Arps played a significant role in structuring and securing bankruptcy court approval of debtor-in-possession financing. The firm has also represented lenders, including Bankers Trust, Extebank, First Union Commercial Corp., Heller

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Financial, Inc. and The New Bank of New England, in DIP financings and has assisted financial institutions in establishing and exploring debtor-in-possession financing opportunities. The firm represented United Air Lines, Inc. in the structuring of its \$50 million participation in the \$150 million DIP loan facility provided to Pan American World Airways, Inc. In connection with Spiegel, Inc.'s acquisition of New Hampton, Inc., Skadden, Arps structured a \$10 million debtor-in-possession financing facility to keep New Hampton in operation throughout purchase negotiations and its bankruptcy reorganization.

### **Bankruptcy-Related Litigation**

Skadden, Arps regularly represents clients in appellate and trial matters in federal and state courts. The firm has vast experience in prosecuting and defending fraudulent transfer and preference actions, landlord-tenant disputes, actions to terminate exclusivity periods, confirmation hearings, contested fee applications and all other litigation arising in the bankruptcy context.

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

300 SOUTH GRAND AVENUE  
LOS ANGELES, CALIFORNIA 90071-3144

(213) 687-5000  
FAX (213) 687-5600  
<http://www.skadden.com>

FIRM/AFFILIATE OFFICE  
BOSTON  
CHICAGO  
HOUSTON  
NEWARK  
NEW YORK  
PALO ALTO  
RESTON  
SAN FRANCISCO  
WASHINGTON, D C  
WILMINGTON  
BEIJING  
BRUSSELS  
FRANKFURT  
HONG KONG  
LONDON  
MOSCOW  
PARIS  
SINGAPORE  
SYDNEY  
TOKYO  
TORONTO

DIRECT DIAL  
213-687-5040  
DIRECT FAX  
213-687-5600  
EMAIL ADDRESS  
RLEVIN@SKADDEN.COM

As of February 1, 2001

**BY HAND**

Furr's Supermarkets, Inc.  
The 25 Way, N.E.  
Albuquerque, New Mexico 87109

Attention: Steven Mortensen  
Vice President, and Chief Financial Officer

Ladies and Gentlemen:

We are pleased that Furr's Supermarkets, Inc. (the "Company" or "you") has engaged Skadden, Arps, Slate, Meagher & Flom LLP ("Skadden Arps," "us," or the "Firm") in connection with various corporate, strategic, and other matters, including the preparation for and filing of a chapter 11 bankruptcy case on your behalf (the "Engagement"). This letter sets forth the scope of our engagement, the basis on which we will present our bills for fees, related charges and disbursements, and certain limitations on our services arising out of potential conflicts of interest. This letter supplements prior engagement agreements with the Company.

**Scope of Engagement**

Our engagement will include advice and representation of the Company as debtor and debtor in possession in a case under chapter 11 of the Bankruptcy Code. We will prepare for the filing of the chapter 11 petition, including review of documents and preparation of the petition with supporting

schedules and statements. During the case, we will advise and consult on the conduct of the case, including all of the legal and administrative requirements of operating in chapter 11; prepare such administrative and procedural applications and motions as may be required for the sound conduct of the case; prosecute and defend litigation that may arise during the course of the case; consult with you concerning and participate in the formulation, negotiation, preparation and filing of a plan of reorganization and a disclosure statement to accompany the plan; review and object to claims; analyze, recommend, prepare, and bring any causes of action created under the Bankruptcy Code; take all steps necessary and appropriate to bring the case to a conclusion; and perform the full range of services normally associated with matter such as this which the Firm is in a position to provide.

The services to be provided by the Firm in connection with the Engagement will encompass all out-of-court planning and negotiations attendant to the tasks described above, as well as all services normally and reasonably associated with this type of engagement which the Firm is requested and is able to provide and which are consistent with its ethical obligations. If, as outlined below, we are unable to obtain court approval for all matters in the chapter 11 case that you want us (and we agree) to undertake, our representation would include as many of those matters as are approved. With respect to all matters of our Engagement, we will coordinate closely with the Company as to the nature of the services to be rendered by us and the scope of our Engagement.

Our engagement is to represent only the Company. If we are to undertake legal services for any other subsidiary or affiliate of the Company, we will require a separate engagement agreement for that entity.

As usual, the Engagement is to represent the Company and not its individual directors, officers, employees or shareholders. However, we anticipate that in the course of that Engagement, we may provide information or advice to directors, officers or employees in their corporate capacities.

As legal counsel, we are not in a position to, and the Company has not retained us to, provide financial advice. With respect to all matters of our Engagement, we will coordinate closely with the company as to the nature of the services to be rendered by us and the scope of our engagement.

**Engagement Personnel**

Jay Goffman and Richard Levin (Corporate Restructuring) will be responsible for and actively involved in the Engagement. Associates and counsel from this practice area will assist as required to provide efficient and cost effective representation. Additional lawyers from our firm, including in other practice areas, will participate in the engagement on an as needed basis. Any significant additions to staffing over our current staffing levels would be discussed with you in advance.

**Fees, Charges and Disbursements, and Retainer**

For our services on your behalf, we will charge a reasonable fee in such amount as the bankruptcy court allows. In a chapter 11 case, fees may not be paid without the express approval of the bankruptcy court. Typically, the bankruptcy court bases a determination of a reasonable fee on a number of factors, such as the time spent, our internal time charges, the difficulty and novelty of the issues and opposition encountered, the skill and expertise brought to bear on the matter, the speed with which we are able to conclude the matter, the time and other demands placed on us by reason of the nature of the engagement and any opposition, the results achieved and their value to the Company, and such other matters as may be considered in determining a reasonable fee for our services. We will use these factors in determining our request to the bankruptcy court for our final fee and will present our application of these factors to our services to the bankruptcy court as part of our request for final fees. Before presenting the request to the bankruptcy court for our final fee, we will consult with you regarding a reasonable fee in an effort to reach an agreement. You agree to consult with us in good faith on that issue.

In some cases, on request of the debtor in possession, the bankruptcy court permits the payment of interim fees during the case. You agree that you will request the bankruptcy court to establish a procedure for payment of interim fees during the case that would permit payment of interim fees. If the bankruptcy court approves such a procedure, we will submit invoices on account against our final fee. These interim invoices will be based on such percentage as the bankruptcy court allows of our internal time charges for the work performed during the relevant period.

A schedule of our internal time charges is attached as Exhibit A. The Firm will utilize its "bundled" rate structure for the Engagement, under which the Firm's internal time charges are adjusted by an additional increment to incorporate charges, listed on Exhibit A, that are otherwise billed on an incurrence basis in accordance with our charges and disbursements policy. As part of the Firm's ordinary business practices, we periodically review and revise our internal time charges. In addition, the internal time charges applicable to particular individuals may increase during the course of the Engagement based on their advancing experience and seniority.

Our invoices and final fee will also include amounts for costs, charges and expenses, including, among others, charges for messenger services, air couriers, photocopying, court fees, travel expenses, postage for large mailings, long-distance telephone and telefax charges, computerized legal research facilities, investigative searches, and other charges for which we have customarily billed for in the past in addition to fees for legal services. (In the event extraordinary or significant expenses are incurred, such as transcript costs and mass mailings, you agree that you will pay those expenses directly or will promptly reimburse us separately from our normal invoice procedure, subject to any required court approval.) To comply with the guidelines of the American Bar Association concerning full disclosure of charges and disbursements practices, attached hereto for your continuing reference is our "Policy Statement Concerning Charges and Disbursements," which may be periodically updated.

Because of the unique nature of a chapter 11 case and its requirements with respect to disinterestedness and compensation of professionals, we require several conditions to undertaking the preparation for a chapter 11 filing. First, we require a payment of \$250,000, which we will apply first, to our current outstanding bill and second, for all amounts owing for fees, costs, and disbursements incurred for all services to the date of the filing of the chapter 11 case. Any remaining balance will be placed in an interest-bearing client trust account, bearing your federal tax identification number.

**Confidentiality and Related Matters**

Confidential communications between a client and counsel are ordinarily privileged, but the commencement of a bankruptcy case may severely

limit this attorney-client privilege. Specifically, if a trustee is appointed in any case concerning a corporate or partnership debtor, the trustee will be able to obtain from us or other counsel and disclose to others information communicated by you to counsel. Some courts also have held that an examiner may invade the attorney-client privilege.

**Waivers of Possible Conflicts of Interest**

Our practice involves more than 1,400 lawyers throughout the United States and in various international offices. As a result, we may from time to time concurrently represent one client in a particular case and the adversary of the client in an unrelated case. For example, while representing you, we may represent a third party who is adverse to you in a matter unrelated to the matters covered by this engagement. Thus, it is our practice to obtain advance consents as set forth below.

Our professional obligations require us to preserve all client confidences, not to disclose any confidential information or use it for another party's benefit, and to pursue zealously the interests of each of our clients, including in those situations when we represent the adversary of an existing client in an unrelated matter. We strictly observe these obligations, despite any concurrent representations of potentially adverse clients on unrelated matters.

Because we adhere to these professional obligations, (i) you consent to our concurrent representation of other present and future clients on a basis adverse to you, including in transactions, litigation or other proceedings, as long as we are not then and have not previously been engaged by you in the matter in which we would be representing the other client; (ii) you waive any claim of conflict of interest on our part arising from any such concurrent representation, and (iii) you agree that you will not, for yourself or for any other party, (x) assert that we are disqualified from any such concurrent representation because of our representation of you in this engagement or (y) assert that our possession of your confidential information, even though it may relate to a matter for which we are representing another client or may be known to someone at the firm working on the other client's matter, is a basis for disqualifying the firm from such concurrent representation. Specifically, without limiting the

foregoing, you agree that we may represent any of your creditors on matters unrelated to this engagement.

Finally, with respect to affiliated entities, including entities that hold direct or indirect interests in you, it is our understanding that we are not being asked to provide, and will not be providing, legal advice to, or establishing an attorney-client relationship with, any such affiliated entity and will not be expected to do so unless we have been asked and agreed expressly to do so. You agree that if we act as counsel for any such affiliated entity, the agreements reflected in this letter will apply to that entity as well.

These agreements were reached with knowledge of (i) the attached Rules of Professional Conduct (the "California Rules") applicable to members of the State Bar of California, after full disclosure to you of the actual and reasonably foreseeable adverse effects, and (ii) your recognition that as a result of our representation of other present or future clients, one or more of the California Rules or other rules relating to our acting in these capacities may be applicable.

These waivers and agreements will continue after termination of this engagement.

**Termination of Engagement**

You may discharge us at any time. We may withdraw at any time with your consent or for good cause without your consent. Good cause includes your breach of this agreement (including your failure to pay any invoice when due), your refusal or failure to cooperate with us, any fact or circumstance that would render our continuing representation unlawful or unethical, or in our reasonable judgment, when resignation of the engagement becomes necessary or appropriate.

**General Matters**

You agree to make appropriate employees available to us to assist in factual inquiries and factual determinations, court hearings and appearances,

Furr's Supermarkets, Inc.  
As of February 1, 2001  
Page 7

transactions and dealings in relation to the subject matter with regard to which we have been retained.

For purposes of this letter, references to Skadden Arps, the Firm, or us include our affiliated law practice entities.

Other matters may arise in this representation not set forth in, or contemplated by, this letter. Please feel free to contact us to clarify or establish any such matter that may arise concerning the nature and scope of our representation as well as to consult with other counsel concerning the terms and conditions of the engagement.

Furr's Supermarkets, Inc.  
As of February 1, 2001  
Page 8

If the foregoing terms of our representation accurately reflect your understanding of your agreement with us and meet with your approval, please sign one copy of this agreement and return it to us.

We very much appreciate the opportunity to work with you and look forward to doing so.

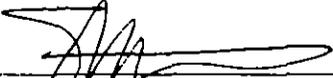
Sincerely,

SKADDEN, ARPS, SLATE,  
MEAGHER & FLOM LLP

By: Richard Levin (by Power)  
Richard Levin

**Accepted and Agreed as of February 1, 2001:**

FURR'S SUPERMARKETS, INC.

By:   
Steven Mortensen  
Vice President and Chief Financial Officer

Enclosures

## **APPLICABLE CALIFORNIA RULES OF PROFESSIONAL CONDUCT**

### **Rule 3-310. Avoiding the Representation of Adverse Interests**

A. . . .

B. A member shall not accept or continue representation of a client without providing written disclosure to the client where:

- (1) The member has a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; or
- (2) The member knows or reasonably should know that:
  - (a) the member previously had a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; and
  - (b) the previous relationship would substantially affect the member's representation; or
- (3) The member has or had a legal, business, financial, professional, or personal relationship with another person or entity the member knows or reasonably should know would be affected substantially by resolution of the matter; or
- (4) The member has or had a legal, business, financial or professional interest in the subject matter of the representation.

C. A member shall not, without the informed written consent of each client:

- (1) Accept representation of more than one client in a matter in which the interests of the clients potentially conflict; or
- (2) Accept or continue representation of more than one client in a matter in which the interests of the clients actually conflict; or
- (3) Represent a client in a matter and at the same time in a separate matter accept as a client a person or entity whose interest in the first matter is adverse to the client in the first matter.

D. . . .

E. A member shall not, without the informed written consent of the client or former client, accept employment adverse to the client or former client where, by reason of the representation of the client or former client, the member has obtained confidential information material to the employment.

SASM&F LLP & AFFILIATES

INTERNAL TIME CHARGE SCHEDULE\*

September 1, 2000

	<u>Standard Bundled Rate</u>
<u>PARTNERS &amp; OF COUNSEL:</u>	\$445 - \$670
<u>COUNSEL AND ASSOCIATES:</u>	
	<u>Rate</u>
Counsel & Special Counsel	\$415
Associate Class 1991 & Prior	405
Associate Class 1992	405
Associate Class 1993	390
Associate Class 1994	375
Associate Class 1995	365
Associate Class 1996	355
Associate Class 1997	340
Associate Class 1998	310
Associate Class 1999	280
Associate Class 2000	230**
<u>LEGAL ASSISTANTS:</u>	\$80 - \$160

\* These are the standard hourly fee rates for most attorneys and legal assistants and do not include amounts for charges and disbursements. In a limited number of cases or for specific types of work (e.g., M&A transactions, certain types of tax matters, etc.), individual rates may be higher or lower than those stated. In addition, the Firm has a standard "bundled rate" for clients who are not billed separately for word processing, proofreading, facsimile or overtime meals, and in-house reproduction is charged at \$0.10 per page.

\*\* First year associate standard will move to the rate of \$250/hr. on April 1, 2001.

Exhibit B

**SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP AND AFFILIATES**  
**Policy Statement Concerning Charges and Disbursements**  
**Under Standard Bundled Rate Structure**  
**Effective 7/1/99**

*Skadden Arps bills for reasonable charges and disbursements incurred in connection with an engagement. Clients are billed for external charges at the actual cost billed by the vendor except in a few cases noted below; charges for internal support services are billed at rates derived from internal cost analyses.*

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**I. Research Services.** Charges for on-line computerized research (primarily Lexis-Nexis and Westlaw) and use of outside research services are billed at the actual vendor invoice amounts which have been reduced by discounts the Firm receives from vendors. There is no charge for information retrieved from public databases through the Internet (including SEC Filings and EDGAR).

SEC filings retrieved using the Disclosure system in our library are charged based on standard vendor rates derived from an internal cost analysis.

The State of Delaware Database provides computer access to a corporations database in Dover, Delaware. The charge for this service is \$50 per transaction, which is the average amount charged by outside services.

**II. Travel-Related Expenses.** Out-of-town travel expenses are billed at actual cost and include air or rail travel, lodging, car rental, taxi or car service, tips and other reasonable miscellaneous items associated with travel. Corporate and/or negotiated discounted rates are passed on to the client. Specific Firm policies for expenditures relating to out-of-town travel include:

- **Air Travel.** Coach travel is used for all domestic flights unless upgrades are available at little additional cost or prior client approval is obtained for a different class. For international flights, business class is used. First class may be used with prior client approval or when upgrades are available at little additional cost.
- **Lodging.** Overnight accommodations are generally booked with hotels with which the Firm has a corporate rate or, when this is not possible, with hotels suggested by the client.

Local travel charges include commercial transportation and, when a private car is used, mileage,

tolls and parking. Specific policies govern how and when a client is charged for these expenses; these include:

- Fares for commercial transportation (e.g., car service, taxi, rail) are charged at the actual vendor invoice amount. The charge for private car usage is the IRS rate allowance per mile plus the actual cost of tolls and parking.
- Round-trip transportation to the office is charged for attorneys who work weekends or holidays. Transportation home may be charged on business days when an attorney works past a certain hour (typically 8:30 p.m.) and has worked a minimum of ten hours that day.
- Local travel for support staff is charged when a staff member works after 8:00 p.m. specifically for the client. Charges are limited by Firm policy and depend on form of transportation and distance traveled.

**III. Reproduction.** Photocopying performed in-house is charged at 10 cents per page. Photocopying performed by outside vendors is billed at the actual invoice amount. Special arrangements can be made for unusually large projects.

**IV. Electronic Communications:** Clients are charged for communications services as follows:

- **Telephone Charges.** There is no charge for local telephone calls. Long distance telephone calls made from the Firm are charged based on applicable rates in tariff tables and are allocated within a client based on the hours worked by attorneys on various matters for that client. Collect, credit card and third-party calls are charged at the vendor rate plus applicable taxes and are assigned to the specific matter for which such charges were incurred.

**V. Postage and Courier Service** Outside messenger and express carrier services are charged at the actual vendor invoice amount which frequently involves discounts negotiated by the Firm. Postage is charged at actual U.S. mail rates. On certain occasions, internal staff may be required to act as messengers; a standard rate is charged for their time.

**VI. Meals** Business meals with a client are charged at actual cost. Luncheon and dinner meetings with the client at the Firm are charged based on the costs developed by our food service vendor. Breakfast, beverage and snack services at the Firm's offices are not charged.

**VII. Direct Payment by Clients of Other Disbursements** Other major disbursements incurred in connection with an engagement will be paid directly by the client. (Those which are incurred and paid by the Firm will be charged to the client at the actual vendor's invoice amount.) Examples of such major disbursements that clients will pay directly include:

- **Professional Fees** (including disbursements for outside professional services such as local counsel, accountants, witness and other professional fees).
- **Filing/Court Fees** (including disbursements for agency fees for filing documents, standard witness fees, juror fees).
- **Transcription Fees** (including disbursements for outside transcribing agencies and courtroom stenographer transcripts).
- **Other Disbursements** (including any other required out-of-pocket expenses incurred for the successful completion of a matter).

\* \* \* \* \*