

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.,
a Delaware corporation,

Case No. 11-01-10799-SA
Chapter 11

Debtor.

**ORDER ON EMERGENCY MOTION OF FURR'S SUPERMARKETS, INC.
TO GRANT REPLACEMENT LIEN TO PINNACLE LOGISTICS, INC.
AND COUNTRYWIDE LOGISTICS, INC., AND FOR OTHER RELIEF**

This matter came before the Court on the emergency oral motion of Furr's Supermarkets, Inc., the debtor in possession ("Furr's"), to grant Pinnacle Logistics, Inc. ("Pinnacle") and Countrywide Logistics, Inc. ("Countrywide") replacement liens, and for other relief (the "Emergency Motion"). Furr's was represented by Alan J. Carr of Skadden, Arps, Slate, Meagher & Flom, LLC, and David T. Thuma of Jacobvitz, Thuma & Walker, P.C. Pinnacle and Countrywide were represented by Peter D. Wolfson of Pryor, Cashman, Sherman & Flynn, LLP. Heller Financial, Inc. ("Heller") was represented by David S. Heller of Latham & Watkins LLP. The Office of the United States Trustee was represented by Leonard Martinez-Metzgar. Various representatives of Furr's, Pinnacle, and Countrywide also were present. The Court, having considered the Emergency Motion, the arguments of counsel, and the requirements of

Bankruptcy Code §§ 361 through 365; having noted that Heller, as agent for certain of Furr's secured lenders, consents to the relief requested herein; and being otherwise sufficiently advised,

FINDS:

(a) Furr's commenced this case on February 8, 2001 (the "Petition Date") for the purpose of reorganizing its business operations and debts;

(b) Effective as of September 23, 1998, Furr's and Pinnacle entered into a certain Warehousing and Distribution Agreement, which is an executory contract;

(c) Effective as of March 26, 1999, Furr's and Countrywide entered into a certain Transportation Services Agreement, which is an executory contract;

(d) Emergency consideration of the Emergency Motion is necessary and appropriate;

(e) The notice given of the Emergency Motion and the hearing thereon was appropriate in the particular circumstances;

(f) Furr's has proceeded and is acting in good faith with respect to the Emergency Motion;

(g) Heller as agent for certain of Furr's secured lenders has consented to the relief granted herein;

(h) Good cause exists for the entry of this Order to avoid immediate and irreparable harm to Furr's and the bankruptcy estate, and to Furr's creditors, employees, and other parties in interest; and

(i) Upon entry of this Order, Pinnacle's and Countrywide's claimed lien on Furr's goods shall be adequately protected.

It is therefore ORDERED, ADJUDGED, AND DECREED:

1. Pinnacle Replacement Lien. Pinnacle is hereby granted a replacement warehouseman's lien, effective as of the Petition Date, on all of Furr's goods shipped after the Petition Date to Pinnacle's warehouse ("the Warehouse") (which, to be clear, includes goods shipped or sold to Furr's that are delivered to the Warehouse by Furr's or by third parties) located at 9820 Railroad Drive and 9601 Railroad Drive, El Paso, Texas (the "Pinnacle Replacement Lien"), to the same extent, validity, and priority of any warehouseman's lien Pinnacle may have enjoyed as of the Petition Date under applicable law, and shall secure any amounts owed by Furr's to Pinnacle as of the Petition Date. The Pinnacle Replacement Lien shall be subject to the same defenses and avoidance powers (if any) as existed on the Petition Date, and shall be limited to the value of Furr's goods that were subject to Pinnacle's claimed lien as of the

Petition Date. The Pinnacle Replacement Lien shall only secure Furr's pre-petition obligations to Pinnacle, and shall not secure Furr's pre-petition obligations to Countrywide or any other affiliate of Pinnacle. In addition, to the extent provided by applicable non-bankruptcy law, Pinnacle shall have a first priority post-petition warehouseman's lien to secure all of Furr's post-petition obligations to Pinnacle, subject to any defenses that Furr's may have.

2. Countrywide Replacement Lien. Countrywide is hereby granted a replacement carrier's lien, effective as of the Petition Date, on all goods of Furr's transported by Countrywide after the Petition Date (the "Countrywide Replacement Lien") to the same extent, validity and priority of any carrier's lien Countrywide may have enjoyed as of the Petition Date under applicable law, and shall secure any amounts owed by Furr's to Countrywide as of the Petition Date. The Countrywide Replacement Lien shall be subject to the same defenses and avoidance powers (if any), as existed on the Petition Date, and shall be limited to the value of Furr's goods that were subject to Countrywide's claimed lien as of the Petition Date. The Countrywide Replacement Lien shall only secure Furr's pre-petition obligations to Countrywide, and shall not secure Furr's pre-petition

obligations to Pinnacle or any other affiliate of Countrywide. In addition, to the extent provided by applicable non-bankruptcy law, Countrywide shall have a post-petition carrier's lien to secure all of Furr's post-petition obligations to Countrywide, subject to any defenses that Furr's may have.

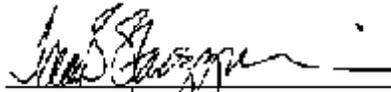
3. Further Relief. Except as otherwise provided by the contracts, and provided that neither Furr's nor Pinnacle or Countrywide (as the case may be) is in default of any post-petition obligation under their respective contracts, Furr's, Pinnacle and Countrywide must continue to perform their respective obligations under the contracts, unless otherwise ordered by the Court.

4. Effect of Interim DIP Order and this Order. Nothing contained in this Order or the Court's February 9, 2001 Interim Order (1) Authorizing Debtor to Obtain Secured Financing, (2) Granting Adequate protection and (3) Granting Other Relief (the "Interim DIP Order"), shall or is intended to prime Pinnacle's warehouseman's liens or Countrywide's carrier's liens to the extent they are valid and enforceable pre-petition liens, nor their Replacement Liens or post-petition liens. Nothing contained in this order is intended

to limit Pinnacle's or Countrywide's rights to contest the Interim DIP Order or any subsequent or final financing order, or to seek further relief.

5. Priority Claim. To the extent that the Replacement Liens are inadequate to protect their interests, the obligations of the Debtor to Pinnacle and/or Countrywide shall have priority over any and all administrative expenses of the kind specified in Sections 503(b) and 507(b) of the Bankruptcy Code.

6. Effective Time of the Order. This Order shall be effective as of the 4:00 p.m. MST February 9, 2001 (the "Effective Time").



THE HONORABLE JAMES S. STARZYNSKI
UNITED STATES BANKRUPTCY JUDGE

Submitted and approved:

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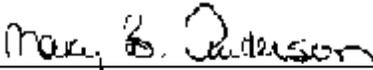
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I hereby certify that on March 2, 2001, a true and correct copy of the foregoing was either electronically transmitted, faxed, delivered, or mailed to the listed counsel and parties.


Mary B. Anderson
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