FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

MAR 14 2001

CLERK

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC., Case No. 01-10779-SA

Debtor. Chapter 11

_____/

FINAL ORDER (1) AUTHORIZING DEBTOR TO OBTAIN SECURED FINANCING, (2) GRANTING ADEQUATE PROTECTION AND (3) GRANTING OTHER RELIEF

Upon the Motion for An Order (1) Authorizing Debtor to Obtain Secured Credit, (2) Granting Adequate Protection and (3) Granting Other Relief (the "Motion") filed by Furr's Supermarkets, Inc., debtor and debtor in possession (in its prepetition capacity, "Borrower" and in its post-petition capacity, "Debtor") for the entry of an order authorizing it to borrow money and obtain other financial accommodations from Metropolitan Life Insurance Company ("MetLife"), Fleet Capital Corporation ("Fleet"), Bank of America, N.A. ("BofA"), and Heller Financial, Inc. ("Heller"), for itself as a Lender and as agent for the Lenders (collectively, MetLife, Fleet, BofA and Heller and any assignees thereof, "Lenders"), and to give security therefor; the Court having examined the Motion, the Interim Order (1) Authorizing Debtor to Obtain Secured Financing, (2) Granting Adequate Protection and (3) Granting Other Relief dated February 8, 2001 and the Second Interim Order (1) Authorizing Debtor to Obtain Secured Financing, (2) Granting Adequate Protection and (3) Granting Other Relief dated March 2, 2001 (collectively, the "Interim Orders"); and upon completion of hearings held on February 8, 2001, March 2, 2001 and March 14, 2001 pursuant to sections 363 and 364 of the United States Bankruptcy Code, 11 U.S.C. §§101-1330 (the "Bankruptcy Code"), and Bankruptcy Rule 4001 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules");

THE COURT FINDS THAT:

A. Filing of Petition. On February 8, 2001 (the "Petition Date"), Debtor filed a voluntary petition for reorganization under chapter 11 of the Bankruptcy Code (the "Petition"). Pursuant to sections 1107 and 1108 of the Bankruptcy Code, Debtor has retained possession of Debtor's assets and is authorized, as a debtor-in possession, to continue the operation and management of the business previously conducted by the Debtor. A creditors' committee, as provided for under section 1102 of the Bankruptcy Code ("Committee"), has been appointed.

B. Jurisdiction; Core Proceeding. This Court has jurisdiction to enter this Order pursuant to 28 U.S.C. §§157(b)(2) and 1334, and consideration of the Motion is a core proceeding as defined in 28 U.S.C. §§157(b)(2)(A), (D) and (M).

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C. Notice of Hearing. Debtor has provided such notice of this hearing and the terms of the Motion as was practicable under the circumstances. Pursuant to 11 U.S.C. §§ 102 and 364, Bankruptcy Rule 4001(c) and (d) and all applicable local rules, such notice is sufficient and appropriate under the circumstances set forth herein and presented to the Court. The Court has received evidence by affidavit of the emergency needs of the Debtor and the consequences to all parties in the event the relief requested by the parties is not granted. Given all of such circumstances, the Court finds that the notice given to the parties to whom it was given in the form it was given was sufficient in the circumstances to afford reasonable notice of the material provisions of the terms hereof.

D. Pre-Petition Loan Documents.

i. From time to time prior to the Petition Date, Fleet, BofA and Heller (collectively, the "Pre-Petition Senior Lenders") loaned money and issued letters of credit to Borrower pursuant to that certain Loan and Security Agreement dated as of December 21, 2000 (as the same has been amended, the "Existing Loan Agreement") and the other Loan Documents (as defined therein) (the Existing Loan Agreement and the other Loan Documents, collectively, the "Pre-Petition Senior Loan Documents"); as of the Petition Date, the approximate amount owed to Pre-Petition Senior Lenders by Borrower was $48,107,674.94 (including all Letter of Credit Liability included in the Letter of Credit Reserve, as defined in the Existing Loan Agreement, but exclusive of accrued and unpaid pre-petition interest and costs and fees) (such amount, together with all accrued and unpaid interest, costs and fees, including without limitation, professional fees and expenses and other Obligations under and as defined in the Existing Loan Agreement, collectively, the "Pre-Petition Senior Indebtedness").

ii. Debtor does not contest that pursuant to the Pre-Petition Senior Loan Documents, as of the Petition Date, the Pre-Petition Senior Indebtedness is secured by a continuing first, valid and perfected security interest in substantially all of the existing Collateral (as defined in the Existing Loan Agreement) of Borrower, including, without limitation, all of the Debtor's accounts, inventory, general intangibles, intellectual property, documents, instruments, chattel paper, investment property, stock in subsidiaries, deposit accounts, cash and other property in the possession or under the control of any Pre-Petition Senior Lender, books and records that evidence or contain information relating to such collateral, and all proceeds thereof and continuing valid and perfected security interest in Equipment and all proceeds thereof, second only to the security interest of MetLife described below (collectively, the "Pre-Petition Senior Collateral").

iii. Borrower entered into a Note Purchase Agreement dated as of June 30, 1995 (as the same has been amended and restated, the "1995 NPA"), pursuant to which Borrower issued to Met Life two $12,500,000 promissory notes; as of the Petition Date, the approximate aggregate amount owed to MetLife by Borrower pursuant to these notes was $25,000,000, exclusive of accrued and unpaid pre-petition interest and costs and fees (such amount, together with all accrued and unpaid interest costs and fees, including, without limitation, professional fees and expenses, collectively, the "Pre-Petition ML Senior Debt").

iv. Debtor does not contest that pursuant to a Collateral Sharing and Security Agreement dated as of June 30, 1995, as replaced and superceded by a Security Agreement dated as of December 21, 2000, the Pre-Petition ML Senior Debt is secured by a continuing first, valid and perfected security interest in the Equipment of Borrower and all proceeds thereof and a valid and perfected security interest in substantially all of the other Pre-Petition Senior Collateral, second only to the security interest of the Pre-Petition Senior Lenders (collectively, the "Pre-Petition ML Collateral").

v. Borrower entered into a Note Purchase Agreement dated as of March 27, 2000 (as the same has been amended and restated, the "March 2000 NPA") with MetLife and Credit Suisse First Boston Private Equity ("CSFB") pursuant to which it issued a senior secured note to MetLife in the principal amount of $8,773,108.90 and to CSFB in the principal amount of $6,226,891.10; as of the Petition Date, the approximate aggregate amount owed to MetLife and CSFB pursuant to these notes was $15,000,000, exclusive of accrued and unpaid pre-petition interest and costs and fees (collectively, the "Pre-Petition March 2000 Debt").

vi. Borrower entered into a Note Purchase Agreement dated as of June 23, 2000 (as amended and restated, the "June 2000 NPA") with MetLife, CSFB, Windward Capital Associates, L.P. ("Windward"), and management noteholders, pursuant to which the Borrower issued to (a) MetLife a note in the principal amount of $2,193,277.23; (b) CSFB a note in the principal amount of $1,556,722.77; (c) Windward a note in the principal amount of $500,000, (d) Tom Dahlen a note in the principal amount of $100,000; (e) Steve Mortsensen a note in the principal amount of $50,000; (f) Steven Smart a note in the principal amount of $50,000; (g) Gene Denison a note in the principal amount of $20,000; (h) Delwyn James a note in the principal amount of $30,000; (i) Steve Stork a note in the principal amount of $50,000; (j) E.G. Gonzalez a note in the principal amount of $25,000; (k) George Golleher a note in the principal amount of $100,000; (l) Dick Goodspeed a note in the principal amount of $200,000; (m) Arthur Typermass a note in the principal amount of $35,000 and (n) David Morrow a note in the principal amount of $250,000; as of the Petition Date, the approximate aggregate amount owed pursuant to these notes $5,160,000, exclusive of accrued and unpaid pre-petition interest and costs and fees (the "Pre-Petition June 2000 Debt").

vii. Borrower entered into a Subordinated Note Agreement dated as of June 30, 1995 (as amended and restated, the "Subordinated Note Agreement") with Fleming Companies, Inc., Windward Merchant, L.P., Windward Merban, L.P., Windward/Northwest, L.P. and MetLife pursuant to which the Borrower issued Subordinated Notes (together with the Subordinated Note Agreement, the "Subordinated Debt Documents") to each of (a) Fleming Companies, Inc. in the principal amount of $16,142,000.00 (which notes were duly purchased from Fleming Companies, Inc. by the Borrower on June 21, 2000 and canceled); (b) Windward Merchant in the principal amount of $2,902,114.00; (c) Windward/Merban, L.P. in the principal amount of $1,934,742.00; (d) Windward/Northwest, L.P. ("Windward/Northwest") in the principal amount of $4,836,858.00 (which note was sold by Windward/Northwest, to MetLife prior to the date hereof); and (e) MetLife in the principal amount of $24,184,286.00; as of the Petition Date, the approximate aggregate amount owed pursuant to these Notes was $33,858,000, exclusive of accrued and unpaid interest and costs and fees (the "Pre-Petition 1995 Subdebt").

viii. The Pre-Petition March 2000 Debt, the Pre-Petition June 2000 Debt and Pre-Petition 1995 Subdebt (collectively, the "Pre-Petition Junior Indebtedness") are subordinated to the Pre-Petition ML Senior Debt and the Pre-Petition Senior Indebtedness pursuant to an Intercreditor Agreement dated December 21, 2000 (the "Intercreditor Agreement") among MetLife, CSFB, Windward, the other holders of Pre-Petition Junior Indebtedness party thereto, Borrower and Heller, as agent for Pre-Petition Senior Lenders. In addition, the Intercreditor Agreement sets forth the relative priorities of the liens on the Pre-Petition Senior Collateral and the Pre-Petition ML Collateral and how the Pre-Petition Senior Lenders and MetLife would allocate the proceeds upon sale of such collateral.

E. Additional Financing Needs. The Debtor desires that the Lenders make available to them postpetition credit in an amount up to $33,000,000 greater than the amount of the Pre-Petition Senior Indebtedness, pursuant to the terms and conditions described in this Order, the Post-Petition Loan and Security Agreement (the "Post-Petition Loan Agreement"), a copy of which is attached hereto as Exhibit A, and any and all other Loan Documents (as defined therein). The Post-Petition Loan Agreement and the other Loan Documents are collectively referred to herein as the "Post-Petition Loan Documents." Unless otherwise defined herein, capitalized terms shall have the meanings set forth in the Post-Petition Loan Agreement. Debtor urgently requires financing and credit under Section 364 of the Bankruptcy Code to purchase inventory and to fund its day-to-day operations. A steady and continual stream of inventory is essential to the maintenance and enhancement of Debtor's business and its going concern value. Inability to fund daily operations and purchase inventory in the short term could result in a long term negative impact on the value of the Debtor to the prejudice and detriment of Debtor and its creditors, customers and employees.

F. No Other Sources of Funds; Insufficient Cash Collateral. As contemplated by sections 364(a) and 364(b) of the Bankruptcy Code, Debtor has attempted, but is unable to obtain either unsecured credit or unsecured credit allowable under section 503(b)(1) of the Bankruptcy Code as an administrative expense on terms more favorable than those offered by Lenders. Debtor has inadequate working capital, and does not anticipate collecting sufficient cash collateral during the period of the DIP Facility (as defined below) contemplated by this Order to fund the expenses it needs to incur in order to maintain and enhance its operations and preserve its going concern value. Substantially all of Debtor's cash on hand as of the Petition Date is cash collateral in which Lenders have a security interest; Lenders have not consented to the use of such cash collateral other than with respect to proceeds of DIP Loans (as defined below). Pre-Petition Senior Lenders have no further obligation to loan funds under the Existing Loan Agreement.

G. DIP Facility. Subject to the entry of this Order and the conditions set forth herein, Lenders are willing to provide post-petition credit (the "DIP Facility") to Debtor, all as more fully set forth herein and in the Post-Petition Loan Documents.

H. Good Faith. The terms of this Order, the Post-Petition Loan Documents and the DIP Facility contemplated herein and therein have been negotiated at arms-length with all parties represented by experienced counsel, are fair and reasonable under the circumstances, are for

reasonably equivalent value and fair consideration, and are in good faith as that term is used in section 364(e) of the Bankruptcy Code. Accordingly, Lenders, in making advances pursuant to this Order, are entitled to the protections described in section 364(e) of the Bankruptcy Code.

I. Cause Shown. Good cause has been shown for the entry of this Order. Among other things, entry of this Order will minimize further disruption of Debtor's business, will enable Debtor to preserve and maintain its assets and is in the best interests of, Debtor, its creditors and its estate.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. Authorization to Borrow Under Post-Petition Loan Documents.

(a) Debtor is hereby authorized to use cash collateral, borrow money, request the issuance of letters of credit and seek other financial accommodations from Lenders and is ordered to perform its obligations hereunder and under the Post-Petition Loan Documents in accordance with the terms hereof and thereof. All DIP Loans (as hereinafter defined) and obligations incurred on or after the Petition Date by Debtor to Lenders pursuant to this Order and the Post-Petition Loan Documents are referred to herein as the "DIP Indebtedness" and, together with the Pre-Petition Senior Indebtedness, as the "Indebtedness". All loans advanced hereunder will be advanced by Lenders to Debtor as provided in the Post-Petition Loan Documents.

(b) The terms and conditions of the DIP Facility and the Post-Petition Loan Documents are hereby approved and are deemed fully enforceable against the Debtor. The Lenders and the Debtor may amend, modify, supplement or waive any provision of the Post-Petition Loan Documents except as to principal amount, interest rate and fees without any need to apply to, or receive further approval from, the Court. Upon its appointment, the Debtor shall provide counsel for any Committee prior written notice of any such amendment, modification, supplement or waiver. Any amendment, modification, supplement or waiver regarding principal amount, interest rate or fees shall be subject to approval by the Court on appropriate notice.

(c) Debtor is authorized and directed to do and perform all acts, to make, execute and deliver all instruments, agreements and documents, including, without limitation, the Post-Petition Loan Agreement and the other Post-Petition Loan Documents and to pay all principal, interest, fees and other expenses which may be required or necessary for the Debtor to perform all of its obligations under this Order and the Post-Petition Loan Documents.

2. Committed Advances.

(a) Lenders agree, subject to all of the terms and conditions set forth herein and in the Post-Petition Loan Documents, including entry of this Order, to provide the DIP Facility to Debtor until the Termination Date (as defined below). The DIP Facility will consist of a revolving credit facility of up to $33,000,000 (the "DIP Revolver Commitment Amount"). Any advances made by Lenders under the DIP Facility shall be referred to as "DIP Loans", and shall be entitled to the benefits of this Order.

(b) Attached hereto as Exhibit B is a budget which has been approved by Lenders (the "Initial Approved Budget") for the period from the Petition Date through June 16, 2001, setting forth by line item all projected cash disbursements of the Debtor for each week during such period. The Initial Approved Budget may be modified or supplemented from time to time by additional budgets (covering any time period covered by a prior budget or covering additional time periods) to which Lenders and the Debtor agree in their respective sole discretion (each such additional budget, a "Supplemental Approved Budget"). The aggregate of all items approved by Lenders in the Initial Approved Budget and any Supplemental Approved Budgets shall constitute the "Budget." The Lenders' cash collateral and the DIP Loans shall be used solely to fund the types and amounts of itemized expenditures set forth in the Budget. Without limiting the foregoing, the aggregate cash expenditures by the Debtor for payroll, rent, utilities, warehouse and transportation, capital expenditures, insurance, supplies, maintenance, advertising, promotional programs, IT support, capital leases, interest, miscellaneous store expenses, miscellaneous administrative expenses and restructuring expenses (described as "Controllable Expenses" in the Budget) and for cash discounts, money orders, professional fees/financing fees, sales taxes, property taxes and mail float (described as "Non-Controllable Expenses" in the Budget), respectively, during any weekly period, measured cumulatively from the Petition Date through the end of such week, shall not exceed the cumulative amount budgeted for such line item during the period from the Petition Date through the end of such week; provided, however, that the Debtor shall be entitled to exceed the weekly cumulative budgeted amounts for Controllable Expenses and Non-Controllable Expenses by an aggregate of $500,000 (applied between Controllable Expenses and Non-Controllable Expenses as the Debtor deems appropriate) during the periods commencing on the Petition Date and ended on each of February 10, 2001 and on February 17, 2001, by an aggregate of $1,000,000 during the periods commencing on the Petition Date and ended each week from the week ended February 24, 2001 through and including the week ended March 31, 2001, and by an aggregate of $1,500,000 from the week ended April 7, 2001 through and including the week ended June 16, 2001. Notwithstanding anything in the Budget or elsewhere in this Order and the Post-Petition Loan Documents to the contrary, no post-petition deposit or payment of pre-petition debt or obligations shall be made without an order of the Court specifically authorizing such deposit or payment and the consent of the Lenders. Notwithstanding any other provision of this Order, at all times "loan availability" shall be (i) determined in accordance with the Post Petition Loan Documents, and (ii) based upon a daily borrowing base certificate for the prior Business Day. Lenders shall have no obligation or commitment to make any additional loans or other financial accommodations to Debtor other than as provided herein and in the Post-Petition Loan Documents. The fact that the Budget includes projections for periods beyond the Termination Date shall not constitute court approval or a commitment by any party with respect to anything beyond the Termination Date.

3. Carve-Out. Notwithstanding any contrary provision of this Order or the Post-Petition Loan Documents, the liens and super-priority claims granted to the Lenders pursuant to 11 U.S.C. §§ 364(c) and 364(d) under the Post-Petition Loan Documents and this Order shall be subject and subordinate to (a) prior to the occurrence and declaration of an unwaived Termination Date (a "Carve-Out Event"), unpaid professional fees and disbursements incurred by the professionals retained, pursuant to sections 327 or 1103(a) of the Bankruptcy

Code, by the Debtor and one statutory committee appointed in this case, and approved and allowed by this Court pursuant to sections 330 and 331 of the Bankruptcy Code (limited to the amounts permitted to be paid in the Budget), and (b) following the occurrence and during the pendency of a Carve-Out Event, the payment, in an aggregate amount not to exceed $1,500,000, of allowed professional fees and disbursements incurred after the occurrence and during the pendency of a Carve-Out Event by the professionals retained, pursuant to sections 327 or 1103(a) of the Bankruptcy Code, by the Debtor and one statutory committee appointed in this case (collectively, the "Carve-Out"); provided, however, that neither the Carve-Out, any advances under the DIP Facility, nor the proceeds of any DIP Collateral, Pre-Petition Senior Collateral nor Pre-Petition ML Collateral (a) shall be used to pay professional fees and disbursements incurred in connection with asserting any claims or causes of action against Lenders, including formal discovery proceedings in anticipation thereof, and/or challenging any lien or claim of Lenders with respect to the DIP Indebtedness, or (b) shall be used to pay professional fees and disbursements incurred in connection with asserting any claims or causes of action against MetLife or the Pre-Petition Senior Lenders, including formal discovery proceedings in anticipation thereof, and/or challenging any lien or claim of MetLife or any Pre-Petition Senior Lender with respect to any of the Pre-Petition ML Senior Debt or the Pre-Petition Senior Indebtedness or the Pre-Petition Junior Indebtedness held by MetLife.

4. Interest, Fees and Costs. All LIBOR Loans under the Existing Loan Agreement shall automatically convert to Base Rate Loans at the end of any applicable Interest Period. There shall be no provision for LIBOR Loans under the DIP Facility. In consideration for the financial accommodations to be made by the Lenders under this Order and the Post-Petition Loan Documents, the Debtor is hereby authorized and directed, without further order of the Court, to pay to Heller, as agent for Lenders, within 2 days following the date due, all interest, fees and charges set forth in the Post-Petition Loan Documents and to reimburse the Lenders for all out of pocket expenses ("Lender Expenses"), including reasonable consultants', attorneys' and paralegals' fees, costs and expenses incurred in connection with the DIP Indebtedness, all as provided for in (and subject to the limitations in) the Post-Petition Loan Documents. Notwithstanding anything in this Order to the contrary, in light of the different pre-petition loans and collateral priorities of MetLife and the other Lenders, the retention of separate consultants and attorneys by MetLife, on the one hand, and the other Lenders, on the other hand, shall be, and hereby is, deemed "reasonable." All advances under the DIP Facility shall bear interest at the rate set forth in the Post-Petition Loan Documents.

5. Termination of DIP Facility. The DIP Facility shall mature and all obligations thereunder shall be repaid in full in cash on the earliest to occur of the following (the "Termination Date"): (a) August 10, 2001, if a plan of reorganization of the Debtor (a "Plan of Reorganization") acceptable to Lenders in Lenders' sole and absolute discretion has not been filed by such date, (b) November 10, 2001, and (c) the effective date of a Plan of Reorganization for Debtor. In addition, the Termination Date shall be deemed to have occurred on the date any of the following events occur (unless otherwise agreed to in writing by Lenders and Debtor): (i) entry of an order converting the Debtor's case to a case under chapter 7 of the Bankruptcy Code; (ii) entry of any order appointing a trustee or examiner with enlarged powers (beyond those set forth in Sections 1106(a)(3) and (4) of the Bankruptcy Code) relating to the operation of

the business of Debtor, or Debtor's application for, consent to or acquiescence in any such appointment; (iii) entry of an order for stay, reversal, vacatur, amendment or other modification in any respect (except to the extent acceptable to Lenders in their sole discretion) of this Order; (iv) entry of any order dismissing Debtor's case; (v) any material unpermitted deviation from the Budget, including, without limitation, failure to pay interest on the Pre-Petition Senior Indebtedness, the Pre-Petition ML Senior Debt and the DIP Facility as provided by the Budget, to Pre-Petition Senior Lenders, MetLife and Lenders; (vi) upon a material breach of this Order or the Post-Petition Loan Documents by the Debtor; (vii) on any date during the term of the DIP Facility on which PricewaterhouseCoopers or another crisis manager reasonably acceptable to Lenders is not actively engaged on behalf of Debtor; (viii) upon sale of all or substantially all of the Debtor's assets; or (ix) upon the substantive consolidation of Debtor's case with any other case. **Five business days following receipt of notice from Heller, as agent for Lenders, by the other Lenders, Debtor, the United States Trustee and the Committee (if the Committee has been appointed) or their respective counsel of the occurrence of the Termination Date, for whatever reason, the DIP Facility shall (unless waived by Lenders) become immediately due and payable, and the automatic stay imposed by Section 362 of the Bankruptcy Code shall be deemed automatically vacated without further notice or action, and Lenders shall be entitled to exercise all rights and remedies available to them under this Order or applicable law; no change in circumstances shall be cause for modification of this provision, the parties having advised the Court that it constitutes an essential part of the negotiations leading up to this Order.**

6. Security; Adequate Protection.

(a) Security Interests. The DIP Indebtedness (and, as limited below, the Pre-Petition Senior Indebtedness and Pre-Petition ML Senior Debt) shall be secured by, and Lenders are hereby granted, pursuant to Section 364(c)(2) and 364(c)(3) of the Bankruptcy Code, a first lien, subject only to Prior Claims (as defined below), on all real and personal property and assets of Debtor, of any kind and nature whatsoever, whether now owned or hereafter acquired by Debtor, and all proceeds, rents or profits thereof (as more fully described in the Post-Petition Loan Documents, collectively, the "DIP Collateral"), including, without limitation, all of the Pre-Petition Senior Collateral, all of the Pre-Petition ML Collateral and all claims or recoveries of Debtor under the Bankruptcy Code (but not including avoidance claims and any and all proceeds therefrom under Sections 544, 545, 547, 548 and/or 553, which shall collectively be referred to herein as "Avoidance Actions") and any cash in possession or control of the Debtor, unused or unearned retainers, deposits, and prepaid items. As used herein, the term "Prior Claims" shall mean any non-avoidable, valid, enforceable and perfected liens on and security interests in the assets of Debtor, as pre-petition debtor which existed on the Petition Date, but only to the extent such liens and security interests are superior in priority, after giving effect to any existing subordination or intercreditor arrangements, to Pre-Petition Senior Lenders' and MetLife's respective pre-petition liens on and security interests in the assets of Debtor, as pre-petition debtor; provided, however, that, notwithstanding the foregoing, the pre-petition liens securing the Pre-Petition Senior Indebtedness, the Pre-Petition ML Senior Debt and the Pre-Petition Junior Indebtedness and any pre-petition liens on Accounts or Inventory or general intangibles, documents, chattel paper and instruments related thereto or the proceeds thereof

(other than any Prior Claims of Premier Distributing Company, Inc., City of El Paso, Andrews County, Texas, Pecos County, Texas, Ward County, Texas, County of Brewster, Midland Central Appraisal District, Midland County Tax Office, Andrews County Appraisal District, Lubbock Central Appraisal District, Wichita County Tax Office, New Mexico Beverage Company, Southern Wine & Spirits of New Mexico, Inc., National Distributing Company, General Electric Business Asset Funding Corporation (to the extent, if any, that its interest is a security interest) and General Electric Company – GE Lighting) shall not constitute Prior Claims. Other than the first priority liens and security interests in favor of Lenders pursuant to this Order and the Prior Claims, no other claims, liens or security interests shall attach to the DIP Collateral in this or any subsequent proceeding under the Bankruptcy Code prior to the indefeasible payment and satisfaction in full of the DIP Indebtedness without the prior written consent of Lenders. Any prepetition security interest in or lien on the Pre-Petition Senior Collateral which is avoided or otherwise preserved for the benefit of Debtor's estate under Section 551 or any other provisions of the Bankruptcy Code shall be subordinate to the security interests in favor of Lenders on the DIP Collateral but solely to the extent of the DIP Indebtedness. For purposes of this Order, the pre-petition liens securing the Pre-Petition Senior Indebtedness, the Pre-Petition ML Senior Debt and the Pre-Petition Junior Indebtedness and any pre-petition liens on Accounts or Inventory or general intangibles, documents, chattel paper and instruments related thereto or the proceeds thereof (other than any Prior Claims of Premier Distributing Company, Inc., City of El Paso, Andrews County, Texas, Pecos County, Texas, Ward County, Texas, County of Brewster, Midland Central Appraisal District, Midland County Tax Office, Andrews County Appraisal District, Lubbock Central Appraisal District, Wichita County Tax Office, New Mexico Beverage Company, Southern Wine & Spirits of New Mexico, Inc., National Distributing Company, General Electric Business Asset Funding Corporation (to the extent, if any, that its interest is a security interest) and General Electric Company - GE Lighting) shall not constitute Prior Claims, and the liens and claims granted to Lenders hereunder shall have priority, pursuant to 11 U.S.C. § 364(d), over the pre-petition liens securing the Pre-Petition Senior Indebtedness, the Pre-Petition ML Senior Debt and the Pre-Petition Junior Indebtedness and any pre-petition liens on Accounts or Inventory or general intangibles, documents, chattel paper and instruments related thereto or the proceeds thereof (other than any Prior Claims of Premier Distributing Company, Inc., City of El Paso, Andrews County, Texas, Pecos County, Texas, Ward County, Texas, County of Brewster, Midland Central Appraisal District, Midland County Tax Office, Andrews County Appraisal District, Lubbock Central Appraisal District, Wichita County Tax Office, New Mexico Beverage Company, Southern Wine & Spirits of New Mexico, Inc., National Distributing Company, General Electric Business Asset Funding Corporation (to the extent, if any, that its interest is a security interest) and General Electric Company -- GE Lighting.)

(b) Replacement Liens. The liens and security interests granted in the DIP Collateral under the Post-Petition Loan Documents and this Order shall secure the Pre-Petition Senior Indebtedness and the Pre-Petition ML Senior Debt, respectively, only to the extent the value of the Pre-Petition Senior Collateral and the Pre-Petition ML Collateral, respectively, plus all net proceeds of sales or collections of Pre-Petition Senior Collateral and Pre-Petition ML Collateral, respectively, applied to the Pre-Petition Senior Indebtedness or the Pre-Petition ML Senior Debt, respectively, as of any post-petition date of determination is less than the value of

the Pre-Petition Senior Collateral or the Pre-Petition ML Collateral, respectively, as of the Petition Date (whether such decline in value is attributable to physical deterioration, consumption, use, shrinkage, decline in market value or otherwise), and Lenders shall be entitled to the rights accorded them pursuant to Section 507(b) of the Bankruptcy Code in respect of any adequate protection granted to any Lender. In addition, to the extent the holders of the Pre-Petition Junior Indebtedness are able to prove, after notice and a hearing, that they had valid, enforceable and unavoidable liens on any of the Debtor's assets as of the Petition Date, and that the value of such assets as of any post-petition date of determination plus the amount of all collections applied to the Pre-Petition Junior Indebtedness secured by such assets is less than the value of such collateral as of the Petition Date, then the holders of the Pre-Petition Junior Indebtedness shall be entitled to replacement liens on the DIP Collateral, subject to subordination pursuant to the terms of the Intercreditor Agreement and the terms of this Order.

(c) Adequate Protection Payments. In addition to the replacement liens described above, as further adequate protection for the use of the Pre-Petition Senior Collateral and the Pre-Petition ML Collateral, the Debtor shall pay taxes and insurance in respect of such collateral and the Pre-Petition Senior Lenders and MetLife, respectively, shall be entitled to payments in an amount equal to post-petition interest, fees and reimbursement for reasonable out-of-pocket expenses within 2 days following the date due under the Pre-Petition Senior Loan Documents and the documents governing the Pre-Petition ML Senior Debt or, if interest is payable less frequently than monthly, interest shall be payable monthly, in arrears, within 2 days after the end of each month (the "Adequate Protection Payments"). Interest on the Pre-Petition Senior Indebtedness shall be paid at the same rate as interest on the DIP Indebtedness, which is less that the "Default Rate" in the Existing Loan Agreement. Interest on the Pre-Petition ML Senior Debt shall be paid at the rates set forth in the documents governing the Pre-Petition ML Senior Debt, without giving effect to any default rates set forth therein. Nothing set forth herein shall be deemed a waiver of the rights of the Pre-Petition Senior Lenders and MetLife to claim that such payments do not constitute sufficient adequate protection. Notwithstanding the foregoing, in the event the Court later determines that the Pre-Petition Senior Indebtedness or the Pre-Petition ML Senior Debt, respectively, are undersecured, the Adequate Protection Payments payable to the Pre-Petition Senior Lenders or MetLife, respectively, may be reallocated to principal or subject to disgorgement after notice and a hearing before this Court.

7. Perfection of New Liens. All liens and security interests on or in the DIP Collateral granted to Lenders by this Order are deemed duly perfected and recorded under all applicable laws as of the date hereof, and no notice, filing, mortgage recordation, possession, further order or act shall be required to effect or continue such perfection, although Lenders may, in their sole discretion, and at Debtor's expense, make any filings or recordations or other acts it deems appropriate with respect to such perfection.

8. Waiver. In consideration of the DIP Facility, Debtor hereby irrevocably waives and is barred from asserting or exercising any right, without (a) Lenders' prior written consent, or (b) prior payment and satisfaction in full of the DIP Indebtedness, to (i) grant or impose, under Section 364 of the Bankruptcy Code or otherwise, senior or equal liens on or security interests in any DIP Collateral; (ii) return goods pursuant to Section 546(g) of the

Bankruptcy Code (or otherwise return goods on account of any pre-petition liabilities) to any creditor of Debtor or to consent to any creditor taking setoff against any pre-petition liabilities based upon any such return pursuant to Section 553(b)(1) of the Bankruptcy Code or otherwise; (iii) use, or seek an order granting Debtor the right to use, cash collateral, or (iv) modify or affect any of the rights of Lenders under this Order.

9. Priority Claims; Limitation on 506(c) Charges. The DIP Indebtedness shall have the highest administrative priority under Section 364(c)(1) of the Bankruptcy Code, and shall have priority over all other costs and expenses of administration, including those specified in, or ordered pursuant to, Sections 105, 326, 330, 331, 503(b), 506(c), 507(a), 507(b) or 726 or any other provision of the Bankruptcy Code or otherwise (whether incurred in this case, any conversion of this case pursuant to Section 1112 of the Bankruptcy Code, or in any other proceedings related hereto or thereto). No costs or expenses of administration or other charge, lien, assessment or claim of any person or entity (whether incurred after the Petition Date, any conversion of this case pursuant to Section 1112 of the Bankruptcy Code or any other proceedings related hereto or thereto) shall be imposed against the Pre-Petition Senior Lenders, MetLife or the Lenders, their pre-petition secured claims or post-petition claims, or the Pre-Petition Senior Lenders', MetLife's or the Lenders' interest in the Pre-Petition Senior Collateral, the Pre-Petition ML Collateral or the DIP Collateral under Section 506(c) of the Bankruptcy Code or otherwise. Notwithstanding the foregoing, Lenders' liens on and security interests in the DIP Collateral and Lenders' administrative claims under Section 364(c)(1) of the Bankruptcy Code shall be subject to the payment of any unpaid fees payable pursuant to 28 U.S.C. § 1930, any unpaid fees payable to the Clerk of this Court or the United States trustee, and the Carve-Out (to the extent provided in Paragraph 3 hereof). Notwithstanding the foregoing, the waivers and limitations regarding Section 506(c) set forth in this paragraph shall not apply to a claim by a Chapter 7 Trustee for the Debtor.

10. Cash Collection Procedures; Application of Proceeds. All collections and proceeds of any Pre-Petition Senior Collateral, Pre-Petition ML Collateral or DIP Collateral and all other cash or cash equivalents which shall at any time on or after the Petition Date come into the possession or control of Debtor, or to which Debtor shall become entitled at any time ("Post-Petition Collections") shall be deposited into Blocked Accounts with banks acceptable to Lenders or forwarded directly to Heller, as agent for Lenders. Notwithstanding anything in the Intercreditor Agreement or applicable law regarding the relative priorities of the security interests of MetLife and the other Lenders on the Pre-Petition Senior Collateral, the Pre-Petition ML Collateral or the DIP Collateral but subject to the terms of the Co-Lender Agreement dated as of the date hereof (the "Post-Petition Intercreditor Agreement") among Pre-Petition Senior Lenders and MetLife, Post-Petition Collections (a) attributable to Inventory and Accounts sold in the ordinary course of business shall be applied first against the DIP Indebtedness and next against the Pre-Petition Senior Indebtedness and the Pre-Petition ML Senior Debt in accordance with the terms of the Post-Petition Intercreditor Agreement, and (b) attributable to Pre-Petition Senior Collateral, Pre-Petition ML Collateral or DIP Collateral other than Inventory and Accounts sold in the ordinary course of business shall be permanently applied first against the DIP Indebtedness (and the DIP Revolving Commitment shall be permanently reduced) and next against the Pre-Petition Senior Indebtedness and the Pre-Petition ML Senior Debt in accordance with the terms

of the Post-Petition Intercreditor Agreement. All cash and cash equivalents of Debtor currently in any Blocked Account (other than payroll accounts to the extent used to pay pre-petition payroll) or in the possession or control of Debtor constitutes proceeds of the Pre-Petition Senior Collateral or the DIP Collateral and shall be deemed Post-Petition Collections and shall within one business day after the entry of this Order be remitted to Lenders for application against the Pre-Petition Senior Indebtedness. All banks in which any lockboxes, blocked accounts or other accounts of Debtor exist are authorized and directed to comply with any request of Heller, as agent for Lenders, to turn over to Heller, as agent for Lenders, all funds therein, or collected after the Petition Date, without offset or deduction of any kind.

11. Collateral Sales. No sale, lease or other disposition of DIP Collateral outside of the ordinary course of business (including collection of accounts receivable or any liquidation, auction or other similar sales) may be done through the Termination Date except to the extent permitted in the Post-Petition Loan Documents or consented to by Lenders. Pre-Petition Senior Lenders' and MetLife's right to credit bid Pre-Petition Senior Lenders' or MetLife's claims, respectively, under the Existing Loan Agreement, the documents governing the Pre-Petition ML Senior Debt, the documents governing the Pre-Petition Junior Indebtedness and this Order at any such sales during the period from the date hereof through the Termination Date pursuant to Section 363(k) of the Bankruptcy Code shall be preserved.

12. No Requirement to Accept Title to Collateral. Lenders shall not be obligated to accept title to any portion of the Pre-Petition Senior Collateral or the DIP Collateral in payment of any of the Indebtedness in lieu of payment of cash or cash equivalents or to accept payment in cash or cash equivalents that is encumbered by any interest of any person or entity other than Lenders.

13. Books and Records. Debtor shall permit Lenders and any authorized representatives designated by Lenders, including appraisers engaged by Lenders, reasonable access to visit and inspect any of the properties of Debtor during normal business hours to review Debtor's financial and accounting records, and to make copies and take extracts therefrom, and to discuss Debtor's affairs, finances and business with Debtor's officers, consultants, and accountants, in accordance with the terms of the Existing Loan Agreement, subject to any applicable order of the Court. Without limiting the generality of the foregoing, Debtor shall promptly provide to Lenders and their designated representatives any information or data reasonably requested to monitor Debtor's compliance with the provisions of this Order and the Budget and to perform appraisals or other valuation analyses of any property of Debtor.

14. Effect of Plan of Reorganization. Except as Lenders may consent, the terms of this Order shall not be modified by any final order (including any confirmation order) or by any Plan of Reorganization in this case or any subsequent case under the Bankruptcy Code. Unless Lenders otherwise agree, no Plan of Reorganization in this case shall be confirmed or implemented without the Indebtedness being paid in full in cash as of the effective date of such Plan of Reorganization.

15. Reservation of Additional Rights of Lenders. Nothing in this Order shall constitute a finding with respect to the adequacy of the protection of Pre-Petition Senior Lenders' interests in the Pre-Petition Senior Collateral or the adequacy of the protection of MetLife's interests in the Pre-Petition ML Collateral. Except as otherwise specifically provided herein, Lenders do not waive any rights they have pursuant to the Pre-Petition Senior Loan Documents, the documents governing the Pre-Petition ML Senior Debt, or the documents governing the Pre-Petition Junior Indebtedness, and Lenders shall retain all rights available pursuant to the Bankruptcy Code or any other applicable law. The attachment of the Budget hereto shall not constitute any commitment by Lenders to provide funding beyond the Termination Date.

16. No Waiver. The rights and obligations of Debtor and the rights, claims, liens, security interests and priorities of Lenders arising under this Order are in addition to, and are not intended as a waiver or substitution for, the rights, obligations, claims, liens, security interests and priorities granted by Debtor, as pre-petition debtor, under the Pre-Petition Senior Loan Documents, the documents governing the Pre-Petition ML Senior Debt or the documents governing the Pre-Petition Junior Indebtedness. In addition, nothing contained herein shall serve to bind any party hereto with respect to their positions as to the value of the Pre-Petition Senior Collateral or the Pre-Petition ML Collateral, or the adequacy of any adequate protection provided pursuant hereto, all rights in respect of which are expressly reserved.

17. Order Binding on Successors. The provisions of this Order shall be binding upon and inure to the benefit of Lenders, Debtor and their respective successors and assigns to the maximum extent permissible under applicable law, including, without limitation, any trustee, examiner or responsible person appointed in this case or any subsequent chapter 11 or chapter 7 case.

18. Effect of Dismissal or Conversion. Debtor shall not seek an order dismissing this case under Section 1112 of the Bankruptcy Code unless, prior to the entry thereof, the DIP Indebtedness shall have been paid in full in cash. If this case is dismissed or converted, Lenders' rights and remedies under this Order shall remain in full force and effect as if this case had not been dismissed or converted.

19. Waivers and Validation of Pre-Petition Senior Indebtedness and Liens. Subject to Paragraph 20 of this Order, Debtor, on behalf of itself and its estate, hereby waives any and all defenses (including, without limitation, offsets and counterclaims of any nature and kind) as to the validity, perfection, priority, enforceability and nonavoidability (under Sections 510, 544, 545, 547, 548, 550, 552 or 553 of the Bankruptcy Code or otherwise) of the Pre-Petition Senior Indebtedness and the security interests in and liens on the Pre-Petition Senior Collateral in favor of Pre-Petition Senior Lenders and the Pre-Petition ML Senior Debt and the security interest and liens on the Pre-Petition ML Collateral in favor of MetLife (which liens and security interests have the priority described herein). The agreements set forth in this paragraph shall be deemed effective upon the date this Order is entered, subject only to creditors' rights to object on the terms and conditions set forth in Paragraph 20 below.

20. Objections by Creditors. All of the provisions of this Order shall be final and binding on Debtor and all creditors and other parties in interest and their successors and assigns upon entry of this Order. All creditors shall have until April 30, 2001 and the Committee shall have until May 23, 2001 to file and to serve upon counsel for Lenders objections or complaints (each a "Claim Objection") respecting the provisions of Paragraph 19 above or any other provisions herein that are predicated upon the validity, extent, priority, avoidability or enforceability of the Pre-Petition Senior Indebtedness, the Pre-Petition ML Senior Debt, Pre-Petition Senior Lenders' pre-petition liens on and security interests in the Pre-Petition Senior Collateral and MetLife's pre-petition liens on and security interests in the Pre-Petition ML Collateral. Notwithstanding the Debtor's waiver of defenses set forth herein, the Committee reserves any and all rights the Committee may have to assert such defenses if it files a Claim Objection. If no Claim Objection is filed with this Court and served upon counsel of record for Lenders and Debtor within the time period set forth above, all provisions of this Order shall become final and binding on all parties in interest.

21. Effect of Modification of Order. Debtor shall not, without Lenders' prior written consent, seek to modify this Order. Notwithstanding anything contained herein, if any provision of this Order is hereafter modified, by final order of this or any other court, such modifications shall not affect the validity of any DIP Indebtedness outstanding immediately prior to the effective time of such modification, or the validity or enforceability of any lien, priority, or right authorized hereby with respect to any such DIP Indebtedness.

22. Safe Harbor. This Court has considered and determined the matters addressed herein pursuant to its powers under the Bankruptcy Code, including the power to authorize Debtor to obtain credit on the terms and conditions upon which Debtor and Lenders have agreed. Thus, each of such terms and conditions constitutes a part of the authorization under Section 364 of the Bankruptcy Code, and is, therefore, subject to the protections contained in Section 364(e) of the Bankruptcy Code except as otherwise provided herein.

23. Additional Covenants and Conditions.

(a) Financial Reporting. Debtor shall provide Lenders with weekly written reports, by Tuesday of each week for the prior week, comparing actual amounts of collections and expenditures to projected amounts as provided in the Budget, other financial statement reporting as currently required under the terms of the Existing Loan Agreement, collateral reports as required by the Post-Petition Loan Documents, and such other information and reports as may be reasonably requested by any Lender including a daily borrowing base certificate; provided, however, that such reports (other than the Borrowing Base Certificate, shall be deemed timely delivered if delivered within two business days following the date otherwise due. In addition, Debtor shall provide directly to each of the Lenders and to counsel for Heller, as agent for Lenders, immediately upon filing, copies of all reports, pleadings, motions, applications, lists, or other papers or information filed or provided by or on behalf of Debtor with the Court or the United States trustee.

(b) Investment Banker. Debtor has filed appropriate pleadings with this Court seeking authority to engage an investment bank reasonably acceptable to Lenders, on terms and conditions reasonably acceptable to Lenders, for the purpose of pursuing strategic alternatives, which investment bank shall be authorized to communicate directly and indirectly with Lenders (and, subject to the members of the Committee signing a confidentiality agreement reasonably satisfactory to the Committee and the Debtor, contemporaneously the Committee) concerning any matters pertinent to the investment bank's efforts. On or prior to April 6, 2001, Debtor shall obtain an order of the Court approving such investment bank, unless an objection to the retention of such investment bank is filed causing the Court not to enter an order approving such investment bank on or prior to April 6, 2001, in which case, Debtor shall vigorously pursue the retention of such investment bank over such objection as soon as possible but in any event no later than April 6, 2001. Without limiting the foregoing, the Debtor covenants that the investment bank shall make a presentation to Lenders (and, subject to the members of the Committee signing a confidentiality agreement reasonably satisfactory to the Committee and the Debtor, contemporaneously the Committee) within 45 days after the entry of an order retaining such investment bank addressing strategic alternatives, which shall include, consideration of a stand alone plan of reorganization (with or without additional investors) and a potential sale.

(c) Other Covenants. Debtor shall comply with all covenants and agreements set forth in the Post-Petition Loan Documents.

24. Objections Overruled. Except to the extent specifically set forth herein, all objections to the entry of this Order are hereby overruled.

25. Interim Orders Superceded. This Order supercedes the Interim Orders.

26. Secured Post-Petition Trade Credit. The Debtor, the Committee and the Lenders are hereby ordered to meet to discuss in good faith the possibility of vendors providing the Debtor with secured post-petition trade credit; provided, however, that unless (a) Lenders provide their written consent (which may be withheld by Lenders in their sole and absolute discretion) or (b) all DIP Indebtedness is paid and satisfied in full prior to the granting of any security interests to any vendors, such security interests are prohibited in accordance with paragraph 8 of this Order.

27. Lenders Consents, Waivers and Amendments. All consents, waivers, amendments and other decisions to be made by Lenders hereunder shall mean the requisite number of Lenders to make such consents, waivers, amendments and other decisions set forth in the Post-Petition Loan Documents.

IT IS SO ORDERED.

Dated as of 3 · 14, 2001

UNITED STATES ~~BANKRUPTCY~~ DISTRICT JUDGE

CONSENTED AND APPROVED AS
TO FORM AND SUBSTANCE:

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