

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

FILED
12:00 MIDNIGHT

In re:

SEP 21 2001

FURR'S SUPERMARKETS, INC.,

DROP BOX
United States Bankruptcy Court
Albuquerque, New Mexico

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

Debtor.

DEBTOR'S MOTION TO EMPLOY AUCTIONEER

The Debtor and Debtor in Possession, Furr's Supermarkets, Inc. (the "Debtor"), pursuant to 11 U.S.C. § 327, requests that the Court approve its employment of Walter Parker, CAI, AARE, Auctioneers ("Walter Parker") to conduct auctions of certain of the Debtor's personal property. In support of this Motion (the "Motion"), the Debtor states:

1. On February 8, 2001 (the "Petition Date"), the Debtor commenced this bankruptcy case by filing a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. Pursuant to Bankruptcy Code §§1107(a) and 1108, the Debtor has retained possession of its assets, as Debtor in Possession, and is continuing to operate its business.

2. The Debtor wishes to employ Walter Parker as an auctioneer. Walter Parker is qualified to auctions certain of the Debtor's personal property in this case. Walter Parker has represented in its disclosure filed pursuant to Bankruptcy Rules 2014 and 2016 (the "Walter Parker Disclosure") that except for its representation of clients in matters wholly unrelated to Furr's or this bankruptcy case, to Walter Parker's knowledge it does not have any interests that are materially adverse to the Debtor.

3. In general, the professional services Walter Parker will render on behalf of the Debtor include (but are not limited to) auctioning certain of the debtor's personal property in

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auction sales to be held in El Paso, Texas and Albuquerque, New Mexico. A copy of Walter Parker's auction agreement with the Debtor, dated September 10, 2001 ("Auction Agreement"), is attached hereto as Exhibit A and incorporated herein by reference. Moreover, Walter Parker seeks a determination that the rates described in the Auction Agreement are reasonable and appropriate and meet with this Court's approval.

4. To the best of Debtor's knowledge, information and belief, employment of Walter Parker would be in the best interest of the estate, and Walter Parker has no interest that is, for the matters that are subject of Walter Parker's employment, adverse to the Debtor, its creditors, or any other party in interest or their respective attorneys, other than any interests set forth in the Walter Parker Disclosure.

5. The fees, costs, and gross receipts tax that Walter Parker will charge Debtor are set forth in the Auction Agreement.

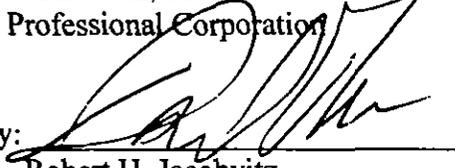
6. Walter Parker requests that the Debtor be authorized to make interim payments to Walter Parker on a monthly basis upon receipt of Walter Parker's billing statements and prior to the Court's determination of the allowability of Walter Parker's compensation under the same terms as set forth in the Motion for Order Authorizing Payment of Interim Compensation and Reimbursement of Expenses of Debtor's Professionals.

7. Walter Parker's employment is in the best interest of the estate and should be made effective as of the date hereof.

WHEREFORE Debtor requests approval of the Court to employ Walter Parker as its counsel pursuant to 11 U.S.C. § 327(e) under the terms of the Auction Agreement and this

Motion, effective as of the date hereof; and to make interim payments to Walter Parker prior to allowance of compensation, as described above.

JACOBVITZ, THUMA & WALKER
A Professional Corporation

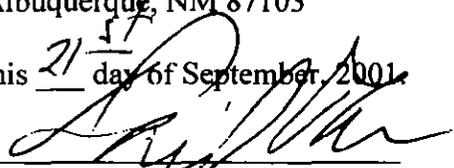
By: 

Robert H. Jacobvitz
David T. Thuma
500 Marquette N.W., Suite 650
Albuquerque, New Mexico 87102
(505) 766-9272
(505) 766-9287 (fax)
Attorneys for the Debtor-in-Possession

This certifies that a copy of the foregoing was served by first class mailed on:

United States Trustee
P.O. Box 608
Albuquerque, NM 87103

this 21st day of September, 2001.


David T. Thuma

WALTER PARKER, CAI, AARE, Auctioneers

AUCTION AGREEMENT

The undersigned ("Owner"), by this agreement, authorizes Walter Parker, CAI, AARE ("Auctioneer") to sell at public auction the personal property consigned to him by the property Owner or his Agents.

1. Auctioneer will attempt to obtain the highest price possible. However, the Property will be sold to the highest bidder without reserve, unless otherwise stipulated by the Owner or his Agents.
2. Owner shall pay Auctioneer, as a commission for conducting said sale, a sum equal to 2% percent of the total sales.
3. If a "Buyers Premium" is added to this auction, it shall be retained by the auctioneer.
4. Owner shall pay for Utilities, when it is necessary to turn them on, and moving & storage expenses when necessary.
5. Date: 9/18, 19, 20, 24, 25, 26, 27 Auction Time: 10:00 AM Auction Location: EL PASO & ALBUERQUE
6. Owner warrants that the property to be sold is free and clear of all liens and encumbrances, that he is authorized to sell the same, and that he will indemnify and hold Auctioneer harmless from any liability from claims, demands, actions, or causes of actions arising or to arise by reason of said sale.
7. Owner agrees to indemnify and hold Auctioneer harmless from and against any and all claims, actions, damages, losses, liabilities and expenses (including reasonable Attorney's fees) relating to the breach or alleged breach of any of Owner's obligations, representations or warranties herein. Owner's representations, warranties and indemnity herein shall survive completion of the transaction contemplated by this agreement.
8. Owner agrees that the property to be included in said sale as of the date of this agreement will not be sold or otherwise disposed of other than by the Auctioneer at the scheduled Auction.
9. If the sale is canceled because of existence of liens or claims of creditors, or for any reason, Owner will pay Auctioneer his expenses of advertisement & make ready labor incurred to the date of cancellation, reasonable attorney's fees and other reasonable expenses incurred by the Auctioneer. Owner shall further pay a minimum Auctioneer's fee of One Thousand Dollars (\$1,000.00).
10. Auctioneer shall collect all monies at and after the auction and be responsible for collecting and remitting State Sales Tax. Auctioneer will remit to Owner the net proceeds of the auction (less expenses & Commission) within 10 Banking days of receipt of collected funds. Auctioneer has no obligation to enforce payment by the buyer. In the event of non-payment by a buyer, Auctioneer may either cancel the sale or return the property to the Owner or sell it at a later date. Auctioneer shall not, under any circumstances, be liable for any consequential damages to Owner as a result of non-payment by a buyer.
11. The parties agree that any litigation or dispute concerning the enforcement of this agreement shall be brought in the State of Texas, the jurisdiction shall be in the County of El Paso, and that Texas law shall govern. The parties further agree that the statute of limitations concerning this agreement shall be One Hundred Eighty days from the auction date.



Walter Parker, CAI, AARE

Date: 9/7/01



Owner's Signature & Title

Date: 9/10/01

OWNER'S COMPANY NAME: FURRS SUPERMARKETS, INC.

COMPANY ADDRESS: 4411 The 25 WAY N.E. STE 100, ALBUQUERQUE, N.M.

TELEPHONE: 544-2683

FEDERAL I.D. NUMBER: _____

INTERNET AUCTIONS

www.parkerauction.com

7145 Dale Road El Paso, Texas 79915-2332

(915) 778-4800 (888) 700-4137 Fax (915) 775-0559

E mail - walter@parkerauction.com

EXHIBIT

A

WALTER PARKER AUCTIONEER

CONSIGNMENT AUCTION AGREEMENT SCHEDULE A (PROPERTY LISTING)

SELLER'S NAME FURRS SUPERMARKETS INC SELLER'S NO. _____ DATE 9/7/91

QUANTITY	DESCRIPTION	RESERVE
1	WAREHOUSE + OFFICE AT 9730 RAILROAD DRIVE, EL PASO, TX	
1	WAREHOUSE 820 RIO GRANDE BLVD. ALBUQUERQUE, N.M.	
1	CORPORATE OFFICE 4411 THE 25 WAY N.E. SUITE 100 ALBUQUERQUE, N.M.	

MEMO

To: Craig Franks
From: Steve Mortensen 
Date: September 8, 2001
Subject: Walter Parker Auctioneers Contract

Cc

Craig

I have the following issues with the contract see paragraph

1. None
2. None
3. None
4. Walter's 20% should cover moving and storage if any, please strike language.
5. None
6. None
7. Indemnification should be mutual.
8. None
9. None
10. Walker represented that they would bare the burden and risk of collection please change language accordingly.
11. Please change venue and law to Albuquerque, New Mexico

Steve

WALTER PARKER *CAI, AARE, AUCTIONEERS & APPRAISERS*

September 10, 2001

Mr. Steve Mortensen, C.E.O.
Furrs Supermarkets, Inc
4411 The 25 Way N.E., Suite 100
Albuquerque, N.M 87109

Dear Mr. Mortensen,

This letter is my authorization to make the following amendments to our Auction Agreement.

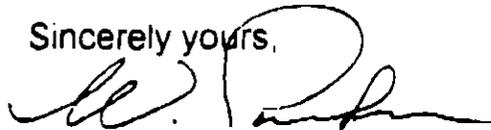
Paragraph 4: Delete this item from the agreement

Paragraph 7: Change this paragraph to mutual indemnification

Paragraph 10: If any bidder defaults on any of his bids we will re-sell the items he defaulted on

Paragraph 11: Add the jurisdiction of Albuquerque, New Mexico, and that New Mexico Law shall govern.

Sincerely yours,



Walter Parker

Agreed to By.

Mr. Steve Mortensen

7145 DALE ROAD EL PASO, TEXAS 79915-2332
(915) 778-4800 (888) 700-4137 FAX (915) 775-0559
E MAIL: walter@parkerauction.com