

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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In re:

FURR'S SUPERMARKETS, INC.,

U.S. DISTRICT COURT
ALBUQUERQUE, N.M.
No. 11-01-10779-SA

Debtor,

**MOTION OF FURRS 4, 5, 7 & 9 LLCs FOR IMMEDIATE PAYMENT
OF ACCRUED POST-PETITION RENT AND TAXES**

COME NOW Furrs 4 LLC, Furrs 5 LLC, Furrs 7 LLC and Furrs 9 LLC (collectively, "Movants"), by and through their attorneys of record, FAIRFIELD, FARROW, FLOWERS, & STROTZ, P.C. (John E. Farrow) and hereby moves this Court for an order pursuant to 11 USC 365(d)(3) to compel the Debtor to immediately pay accrued post-petition rent and taxes due and owing up to the date of rejection under the following leases of nonresidential real property and as grounds would show the Court as follows:

1. The Movants were the Lessors under separate leases for non-residential real property with the Debtor (collectively, "the Rejected Leases") at the following locations, which leases have been rejected by the Debtor as of the rejection dates below, as more particularly described as follows:

Lessor	Store No.	Location	Rejection Date
Furrs 4	905	205 Highway 70 W, Ruidoso, New Mexico	August 31, 2001
Furrs 5	946	6910 N. Mesa, El Paso, Texas	August 20, 2001
Furrs 7	944	115 Americas Ave, El Paso, Texas	August 20, 2001
Furrs 9	938	1590 George Dieter, El Paso, Texas	August 31, 2001

2. Since the filing of the petition, and up to the rejection dates, the Debtor has failed to pay post-petition rent on two of

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the Rejected Leases, and has also failed to pay real estate property taxes that have accrued and become due and payable on each of the properties covered by the Rejected Leases, all as required pursuant to the terms of the Rejected Leases.

3. The amounts that have accrued for post-Petition rent and taxes on each of the Rejected Leases are as follows:

Lessor	Store No.	Location	Post-Pet. Rent	Taxes	Total
Furrs 4	905	205 Highway 70 W, Ruidoso, NM	\$ -0-	\$ 6,799.93	\$ 6,799.93
Furrs 5	946	6910 N. Mesa, El Paso, TX	103,462.28	122,564.56	150,819.32
Furrs 7	944	115 Avenue of the Americas, El Paso, TX	74,517.88	38,888.64	113,406.52
Furrs 9	938	1590 George Dieter, El Paso, TX	-0-	32,165.75	32,165.75
Total			\$177,980.16	\$125,211.36	\$303,191.52

4. Pursuant to 11 USC 365(d)(3), the Debtor was obligated to "timely perform all of the obligations . . . arising from and after the order for relief under any unexpired lease of nonresidential real property, until such lease is assumed or rejected, notwithstanding section 503(b)(1) of this title."

5. The Debtor failed to comply with its post-Petition obligations under the Rejected Leases and the above amounts constitute administrative expenses under 11 USC 503(b)(1)(A) as actual, necessary costs and expenses of preserving the estate.

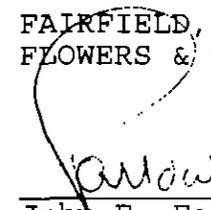
6. The above amounts represent sums that were required to be paid pursuant to 11 USC 365(d)(3) in order to protect landlords from becoming involuntary post-petition creditors of the Debtor. See *DeCicco of Montvale, Inc.*, 239 B.R. 475 (D. NJ, 1999).

7. Local counsel for Debtor was contacted concerning the

above Motion and consent was not obtained. It is therefore submitted as an opposed Motion.

WHEREFORE, the Movants pray this Court for an order requiring the Debtor to immediately pay the above amounts for accrued post-petition rent and taxes due and owing on the Rejected Leases up to the date of rejection and for such other and further relief as the Court may deem just and proper.

FAIRFIELD, FARROW,
FLOWERS & STROTZ, P.C.



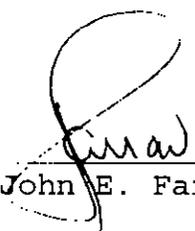
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I **HEREBY CERTIFY** that a true copy of the foregoing pleading was mailed to the following counsel this 27 day of September, 2001:

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