

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.
Tax I.D. No. 22-3137244

Case No. 11-01-10779 SA

Debtor.

UNITED STATES TRUSTEE'S MOTION TO CONVERT

The United States Trustee for the District of New Mexico hereby moves the Court for an order converting the above referenced matter to a chapter 7 proceeding. As her reasons therefor, the U.S. Trustee states the following:

1. On February 8, 2001, Furr's Supermarkets, Inc. filed the above referenced Chapter 11 proceeding.
2. On July 3, 2001, the Court entered an order approving the sale of substantially all of the Debtor's assets to Fleming Companies, Inc.(Fleming).
3. On August 31, 2001, the sales transaction conveying substantially all of the Debtor's assets to Fleming was closed.
4. Since the closing, the Debtor has only been able to operate based on cash collateral agreements with Heller Financial, Inc., Metropolitan Life Insurance Company, and other secured lenders (hereafter Secured Lenders). Such agreements have resulted in the payment of some administrative expenses but not others, contrary to the scheme of distribution set forth in the 11 U.S.C.§507.
5. If this matter is allowed to continue as a Chapter 11 proceeding, the inevitable result will be extensive and costly actions for disgorgement among administrative claimants.

6. As testified by the Debtor's president, Steve Mortensen, on October 4, 2001, the Debtor plans to complete the wind down of corporate affairs and release its employees by October 27, 2001.

7. The Debtor is unable to effectuate a plan.

8. The continued pendency of this matter as a Chapter 11 proceeding will prejudice both administrative claimants and creditors.

Respectfully submitted,

BRENDA MOODY WHINERY
United States Trustee

Filed electronically 10/12/01
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The undersigned certifies that a true and accurate copy of the foregoing was mailed and sent by telefacsimile to the below listed counsel this 12th day of October 2001.

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