

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

FILED
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U.S. BANKRUPTCY COURT
ALBUQUERQUE, NM

In re:

FURR'S SUPERMARKETS, INC.,

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

Debtor.

**DEBTOR'S MOTION TO APPROVE SHORT-TERM AGREEMENT REGARDING
PAYMENT OF ATTORNEY FEES OF DEBTOR'S COUNSEL**

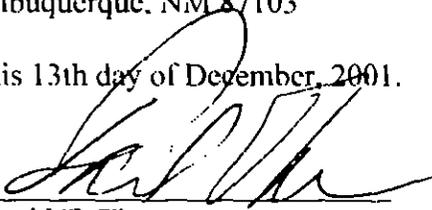
The Debtor Furr's Supermarkets, Inc. (the "Debtor"), pursuant to 11 U.S.C. § 327(a), requests that the Court approve an agreement with Metropolitan Life Insurance Company ("MetLife") regarding the payment of attorney fees incurred by Debtor's counsel Jacobvitz, Thuma & Walker, P.C. ("JTW") from December 1, 2001 through December 15, 2001. In support of this Motion (the "Motion"), the Debtor states:

1. On February 8, 2001, 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, Debtor has retained possession of its assets, as Debtor in Possession.
2. On November, 28, 2001, the Debtor's authority to use cash collateral ceased, and the Debtor terminated all of its remaining employees. The Debtor has no funds with which to pay any ongoing administrative expenses.
3. In lieu of an immediate conversion of the case to a Chapter 7 liquidation, the Debtor has continued to negotiate with one or more of its secured lenders, and with certain other parties in interest, to determine if an agreement could be reached that would benefit the bankruptcy estate and provide an alternative to conversion.

1409

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

this 13th day of December, 2001.

A handwritten signature in black ink, appearing to read "D. Thuma", written over a horizontal line.

David T. Thuma

JACOBVITZ, THUMA & WALKER
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

ROBERT H. JACOBVITZ
DAVID T. THUMA
THOMAS D. WALKER

500 MARQUETTE N.W., SUITE 650
ALBUQUERQUE, NM 87102

TELEPHONE
(505) 766-9272
FACSIMILE
(505) 766-9297

December 5, 2001

VIA FACSIMILE

Steven R. Savoia
Bingham Dana LLP
399 Park Avenue
New York, New York 10022-4689

Re: In re Furr's Supermarkets, Inc.
USBC, DNM, Case No. 11-01-10779 SA

Dear Steve:

This letter confirms our telephone conversations of December 4 and 5, 2001 as those conversations related to payment of attorneys fees incurred or to be incurred by the Debtor to our firm, Jacobvitz, Thuma & Walker P.C. ("JTW").

The third post-closing financing order expired December 1, 2001. The Debtor had intended to convert its chapter 11 case to chapter 7 shortly thereafter if no agreement had been reached with Metropolitan Life Insurance Company ("MetLife") and/or Heller Financial, Inc. that was sufficient in the Debtor's judgment to avert conversion.

Based on ongoing discussions, it appears that it still may be possible for the Debtor to reach an agreement to avoid immediate conversion, although this is far from certain. Since the special carve-out for JTW does not apply to services rendered after December 1, 2001, and to provide a source of funds to permit the Debtor to utilize counsel in chapter 11 while the parties continue to negotiate, MetLife has agreed to permit payment from its collateral of the legal fees, costs and gross receipt taxes attributable to JTW's legal fees allowed by the Court under Bankruptcy Code § 328 for the period from December 3, 2001 until the first to occur of conversion of the chapter 11 case to chapter 7 or December 15, 2001; provided, however, that MetLife shall not be obligated to permit more than \$15,000 of its collateral to be used for this purpose during that period. JTW will hold \$15,000 in trust, subject to approval of the Court to disburse the funds to JTW.

There are no conditions attached to this agreement to pay the fees. The Debtor may take whatever position it deems appropriate with respect to any negotiations, or conversion to chapter 7, or otherwise, including any position adverse to Met Life. The

EXHIBIT

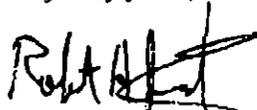
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Steven R. Savoia, Esq.
December 5, 2001
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Debtor shall promptly submit a motion to the Court emphasizing the disinterestedness of MetLife and its lack of control over the conduct of the Debtor or ITW and seeking entry of an order approving this arrangement. This agreement is subject to Court approval.

If this letter accurately sets forth our agreement, please so signify by signing below, and returning a copy of the signed letter to me. I will attach the letter to a motion to be filed with the Court.

Very truly yours,



Robert H. Jacobvitz
For the Firm

RHJ

BINGHAM DANA LLP

By: 

Steven R. Savoia
Attorneys for Metropolitan Life
Insurance Company