

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

02 JAN 22 PM 1:36

In re:

U.S. BANKRUPTCY COURT  
ALBUQUERQUE, NM

FURR'S SUPERMARKETS, INC.,

Case No. <sup>11</sup>11-01-10779-SA  
Chapter <sup>11</sup>7/11

Debtor.

**MOTION BY FREDERICK M. MOSSMAN &  
EDWARD GLADDEN TO ENFORCE THE COURT'S  
ORDER RESULTING FROM DEBTOR'S NOTICE  
OF PROPOSED CURE AMOUNTS**

FREDERICK M. MOSSMAN and EDWARD GLADDEN, Co-Trustees Under That Certain Trust Created in Article VI, Paragraph C.1 of the Last Will and Testament of Frederick A. Mossman, Creditors of the Debtor herein, hereby move the Court enforce its order entered herein relating to cure amounts prior to assignment of the un-expired lease relating to Store No. 876, and Creditors state therefor as follows:

1. The Court entered its ORDER RESULTING FROM DEBTOR'S NOTICE OF PROPOSED CURE AMOUNTS in Case No. 11-01-10779-SA on August 31, 2001.
2. The Court's Order provided that, in addition to the sum of \$14,219.60 proposed to be paid by the Debtor to the Creditors in DEBTOR'S NOTICE OF PROPOSED CURE AMOUNTS, OBJECTION DEADLINE AND FINAL HEARING, filed in Case No. 11-01-10779-SA on August 3, 2001, the Debtor was ordered to pay the sums of \$16,082.95 for accumulated taxes and \$235,590.84 for accumulated liens.
3. Pursuant to the aforesaid Order, the Debtor was to pay \$265,893.93 to the Creditors herein.

153

4. The Debtor's case was subsequently converted to a Chapter 7 proceeding on December 19, 2001.

5. To date the Debtor has failed to pay any sum whatsoever to the Creditors, although, upon information and belief, the Debtor has paid all other secured creditors in said case.

6. The Creditors have exhausted all efforts to resolve this issue, and they are now threatened with a lien foreclosure action by the largest lien claimant, which will cause immediate and irreparable harm to them.

7. The Debtor's failure to abide by the lawful Order of this Court is willful or grossly negligent and this Court should hold the Debtor in contempt and impose appropriate sanctions.

8. Any other creditor or entity herein having received funds ordered by this Court to be paid to Creditors should be required to disgorge said funds back to the Court for payment to Creditors.

9. The Debtor should not be permitted to purge its contempt herein absent an immediate and full payment of the sum specified in the Court's August 31, 2001 Order, plus any compensatory damages suffered by the Creditors as a result of the Debtor's violation of this Court's order, plus appropriate punitive damages.

10. All amounts owed by the Debtor to the Creditors are secured debts owned by the Debtor to the Creditors.

11. In addition, Creditor Richardson & Richardson, Inc. is attempting to collect the debt owed by the Debtor to it in violation of the automatic stay herein and without leave of this Court by filing a lien foreclosure action in the New Mexico District Court

for the County of Bernalillo, notwithstanding having full knowledge of this Court's Order entered herein on August 31, 2001.

12. Creditor Richardson & Richardson, Inc. should be held in contempt of this Court for its willful violation of the United States Bankruptcy Code.

WHEREFORE, the Creditors request that the Court find that the Debtor and Cred-

sanctions upon the Debtor and Creditor Richardson & Richardson, Inc. and require the