

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

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In re:

FURR'S SUPERMARKETS, INC.,

Case No. 7-01-10779-SA

Chapter 7

Debtor.

**TRUSTEE'S MOTION TO SELL CERTAIN PERSONAL PROPERTY
IN STORE #954 FREE AND CLEAR OF LIENS AND INTERESTS,
AND TO APPROVE SETTLEMENT**

Furr's Supermarkets, Inc. (the "Debtor"), by and through Yvette Gonzales, Chapter 7 Trustee (the "Trustee"), pursuant to Bankruptcy Code §363(b)(1) and Bankruptcy Rule 9019, files this motion for an order allowing the sale of certain personal property located in the Debtor's closed store #954, and to settle a controversy in connection therewith, in support 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. On December 19, 2001, the Court entered an order converting Debtor's case to one under chapter 7. Also on December 19, 2001, the United States Trustee filed a Notice of Appointment of Trustee as interim trustee in Debtor's bankruptcy estate. No other trustee was elected in the case, and the Trustee is and continues to be the trustee in this case.

2. In August 2001, the Debtor closed grocery store number 954 in Anthony, Texas ("Store #954"), which contained certain in-store furnishings, fixtures, machinery, equipment and other personal property leased to Debtor by Heller Financial Leasing, Inc. ("Heller") and used by Debtor in its operation of Store #954 (the "Store Equipment"). The Store Equipment is described on the attached Exhibit "A." The Store Equipment was used by the Debtor in its operations of Store #954 and, upon information and belief, constitutes the

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entire operating assets of Store #954 except for incidental equipment not owned by Heller or Debtor but leased to the Debtor by third parties other than Heller. La Feria Park-N-Shop, Inc. ("La Feria") is the owner of the real property on and in which Store #954 was operated.

3. Heller, the Trustee, Mr. Adrian Baca ("Baca"), and La Feria have reached an agreement to sell the Store Equipment to La Feria, free and clear of all liens and interests, for a lump sum, cash payment of \$200,000.00 from La Feria to the Trustee.

4. The Trustee believes that it is in the best interests of the Debtor's estate and its creditors to approve the sale of the Store Equipment to La Feria in accordance with the terms and conditions set forth herein.

5. Upon information and belief, the only parties that claim a lien or other interest in the Store Equipment are Debtor, Heller and the Debtor's pre-petition and post-petition bank lenders.

6. If approved, the Store Equipment shall be sold to La Feria free and clear of all liens and interests, with all liens and interests attaching to the sale proceeds, and all sale proceeds shall be paid to Heller, to be held and applied as further ordered by the Court upon final resolution of the pending adversary proceeding no. 01-01160 between the Debtor as Plaintiff and Heller as Defendant (the "Recharacterization Adversary Proceeding"). Trustee and Heller have agreed in principal to a resolution of the Recharacterization Adversary Proceeding, subject to notice, hearing and approval of the Court.

7. The Store Equipment will be transferred to La Feria, or its assignee, by Bill of Sale, executed by Heller "as is, where is, and with all faults," and shall be further executed by the Trustee on behalf of the Debtor's estate to transfer to La Feria all rights and interests, if any, that the Debtor's estate may have in the Store Equipment. The Bill of Sale shall contain

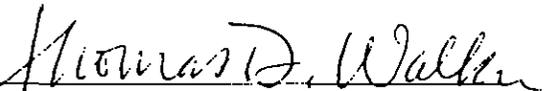
no representations or warranties made by the Debtor, Trustee or Heller, and may include a statement to that effect.

8. Following entry of a non-appealable order authorizing the sale, and completion of the sale, including delivery of the executed bill of sale and payment of the consideration described herein, the Trustee, on behalf of Debtor's estate, and Heller, and on one hand, and Baca, individually, and La Feria, on the other hand, shall mutually release each other from any and all claims relating to the Store Equipment and/or to Store #954, including without limitations any claims based upon trespass or for rent; provided, however, that Baca and La Feria will not release the Debtor's estate from any pre-petition or post-petition rent claim or administrative priority claim that accrued prior to August 31, 2001. The release described herein may be incorporated into the order authorizing the sale and will be binding and enforceable so long as counsel for the respective parties approve the order.

9. Trustee and Heller have agreed to the transaction described herein without prejudice to their respective rights, claims and defenses in the Recharacterization Adversary Proceeding.

WHEREFORE, the Trustee respectfully requests that this Court enter an order granting the relief requested herein, and for all other just and proper relief.

JACOBVITZ, THUMA & WALKER,
a Professional Corporation

By: 

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This certifies that on March 18, 2002,
a copy of this Motion was mailed by
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Thomas D. Walker

1	chicken breader	1	8 foot salad case
1	33 x 67 hot table	3	8 foot produce cases
1	credit card machine	3	12 foot produce cases
<u>FRONT END</u>		2	12 foot produce cases
<u>Quantity</u>	<u>Description</u>	1	Hobart labeler
11	IBM PC - registers	2	Hobart PR30 scales
11	IBM keyboards	1	Detecto MCS scale
11	IBM monitors	1	Toledo 2110 scale
11	IBM printers	2	20 x 60 inch cooler shelves
11	IBM scale/scanners	4	29 x 72 inch cooler shelves
11	IBM drawers	3	29 x 96 inch cooler shelves
10	IBM credit card machines	17	slant display tables
10	phone/intercoms	5	48 x 48 inch bins
2	Texas Lottery ticket dispensers	1	wet table

6	magazine/gum racks	<u>TORTILLERIA</u>	
1	electronic time clock	<u>Quantity</u>	<u>Description</u>

<u>PRODUCE</u>		1	24 x 63 inch SS3 comp sink
<u>Quantity</u>	<u>Description</u>	1	hand sink
1	Hobart SP 15009 scale	1	floor mixer
1	AT&T multi-line phone	1	masa divider
1	wrapping station	1	36 x 60 chip table
1	30 x 72 work table with doors	1	chip fryer
1	4 drawer file cabinet	1	air compressor
1	27 x 91 inch 3 compartment sink	1	vent hood 48 x 96
1	walk-in cooler - 17 x 27 foot	1	tortilla press
(next column)		1	masa feeder

		<u>BREAK ROOM</u>	
		<u>Quantity</u>	<u>Description</u>
1	masa cutter		
1	oven		
2	conveyors	1	brown double door 2 door cabinet
1	tortilla iron	24	6 door lockers
1	tortilla counter	6	5 door lockers
1	30 x 36 SS table	1	Sharp microwave Carousel II with cart
3	20 gallons flour bins		
18	16 x 30 plastic trays	1	2 x 2 foot tables
2	flour tubs	8	chairs
2	30 gallons flour bins	1	bug zapper
1	48 x 96 foot hood	1	3 x 4 foot cork bulletin boards
2	28 x 76 tortilla display racks	1	2 x 2 x 3 trash can
2	28 x 84 tortilla display racks	1	2 foot step ladder
1	refrigerated masa case	1	2 level stocking cart
1	48 x 51 inch display table		

FLOWER

BACK ROOM

<u>Quantity</u>	<u>Description</u>
1	platform scale (no weights)
1	2 drawer desk
1	Sharp EL 119 calculator
2	Catapiller crown hand jack
1	Hoshizaki ice maker
1	ice crusher
4	stocking carts
1	SS cooler rack - non-operative

<u>Quantity</u>	<u>Description</u>
1	sink
1	work counter with 3 doors & 6 drawers
1	AT&T multi-line phone
1	trash can
7	41 stair step floral display units
1	8 foot x 6 inch refrigerated display case

BAKERY

<u>Quantity</u>	<u>Description</u>
2	8 foot 5 door cases for donuts
1	8 foot refrigerated pastry case closed

(next column)

1	8 foot refrigerated cake case open	1	12 foot low display meat
1	6 foot refrigerated deli case open with trays in back	2	12 foot Ref Disp, Ham, cheese & salad
1	8 foot closed deli case	1	8 foot Ref. disp, pizza
1	6 foot hot table -2 foot open front	3	24 foot HW gondolas both sides
1	Bunn 3 pot coffee maker	3	19 foot HW gondolas both sides
1	AT&T multi-line phone	1	32 foot gondola
1	60 quart mixer	1	50 foot gondola
1	Amana microwave oven	1	AT&T multi-line phone
1	3 door refrigerator	14	52 foot gondolas 2 sided
6	oven racks	1	52 foot soda rack
100	oven trays	2	end racks
1	20 gallon flour barrel	2	20 foot gondolas
1	proofers	3	52 foot gondola 1 sided
2	30 x 72 tables	1	82 x 78 inch floral display case
1	30 x 96 work table	16	8 foot coffin freezer
1	dough divider	8	end cap coffin freezers
1	oven	8	5 foot freezers
1	balance scale	6	12 foot refrigerated dairy display
2	48 x 78 display tables	2	8 foot refrigerated dairy display
1	dough shaper	4	12 foot refrigerated beer display
60	17 x 27 donut trays	2	12 inch refrigerated cold cuts display
25	9 x 27 donut trays	1	8 inch refrigerated cold cuts display
4	folding tables		
3	Husmann 12 foot meat display cases		
2	Husmann 8 foot meat display cases		
(next column)			
		<u>MEAT</u>	
		<u>Quantity</u>	<u>Description</u>
		1	13 1/2 x 33 1/2 foot walk in freezer
		5	2 x 6 foot racks

4	rolling racks	1	4 x 14 foot shelves in cooler
2	2 x 4 foot racks	1	6 x 14 foot floral walk-in with 20 foot gondola and shelving
2	2 x 6 foot	1	scrubbing machine with chain covermatic 260B
1	2 1/2 x 4 foot rack	1	gas Honda buffer
2	tug dolly	1	electric buffer
1	2 x 6 foot work table	1	

3 2 x 8 foot work tables

OFFICE EQUIPMENT

		<u>Quantity</u>	<u>Description</u>
2	Hobart saws		
1	6 door locker	1	black desk
1	Hobart meat grinder	1	brown top desk with no drawers
1	2 x 4 rack	2	4 drawer filing cabinets
1	scale quantum & wrapping station	20	folding chairs gray
1	Hobart scale & wrapper fastpak	1	small refrigerator
1	Hobart slicer	2	lateral filing cabinets
1	Hobart tenderizer	2	29 x 68 inch folding tables
		1	computer desk unit (gray)
		1	camera surveillance unit

GMD BACK ROOM

<u>Quantity</u>	<u>Description</u>
2	4 drawer file cabinets
1	6 foot ladder
1	12 foot ladder
1	2 foot ladder
1	card board baler
1	16 x 25 foot walk-in freezer with shelves
1	20 x 14 foot milk walk-in cooler
1	14 x 49 foot beer walk-in cooler

OTHER

All other equipment, furniture, fixtures, and property in or on the premises at 317 S. Main Street, Anthony, Texas in which the Debtor has an interest, other than items or equipment leased by the Debtor from Petroleum Capital, Comdisco, Compaq, Econocom, Fleet (Savin), Sensomatic, or Texas Medical.