

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEW MEXICO

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U.S. BANKRUPTCY COURT  
ALBUQUERQUE, N.M.

In re:

FURR'S SUPERMARKETS, INC.,  
a Delaware corporation.

Case No. 11-01-10779 SA  
Chapter 11

Debtor.

**MOTION TO APPROVE AUTHORITY FOR DEBTOR TO SETTLE WORKERS' COMPENSATION CLAIMS IN THE ORDINARY COURSE OF BUSINESS**

The Debtor in Possession, Furr's Supermarkets, Inc. ("Debtor"), pursuant to Bankruptcy Rule 9019, seeks an order of this Court granting the Debtor authority to compromise and settle any NM Workers' Compensation Claims (as defined in paragraph 4 below) on the terms and conditions set forth below.

This Motion is based on the following facts and recitations:

1. Debtor seeks authority to reach binding settlements of NM Workers' Compensation Claims, without further approval of the Court, so long as each settlement reached does not exceed \$10,000 plus medical expenses. A high percentage of settled NM Workers' Compensation Claims are settled within these parameters in the ordinary course of the Debtor's business.

2. On February 8, 2001 (the "Petition Date"), the Debtor filed a voluntary petition in this Court for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330 (as amended, "Bankruptcy Code"). The Debtor continues to operate its business and manage its properties as debtor-in-possession under sections 1107(a) and 1108 of the Bankruptcy Code.

3. The Debtor operates a regional supermarket chain, with operations in New Mexico and Western Texas. The Debtor operates 45 stores in the State of New Mexico, and employs approximately 3,250 individuals in New Mexico.

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4. The New Mexico Workers' Compensation Administration ("WCA") administers laws that provide a workers' benefit system in New Mexico pursuant to Chapter 52, NMSA 1978 (the "NM Workers Compensation Laws").

5. The Debtor provides workers' compensation coverage to its New Mexico employees as a certified self-insurer pursuant to Section 52-1-4A NMSA and the Self-Insurers' Guarantee Fund Act, §52-8-1 *et seq.* NMSA 1978. Such obligations are reinforced by, among other things, a letter of credit in the amount of \$1,996,330 issued by The Chase Manhattan Bank in favor of the New Mexico Self-Insurers' Guarantee Fund Commission ("Commission"). Such letter of credit is not property of the estate, and any draws by the Commission against the letter of credit are not subject to the automatic stay.

6. Claims under the Workers Compensation Act, Chapter 52, Article 1, NMSA 1978 or the New Mexico Occupation Disease Disablement Law, Chapter 52, Article 3, NMSA 1978 ("NM Workers Compensation Claims"), are mediated and adjudicated pursuant to procedures set forth in the Workers Compensation Laws, and regulations promulgated pursuant thereto.

7. On February 8, 2001, the Court entered an Order Authorizing (A) Payment of Prepetition Employee Obligations and (B) Continuation of Employee Benefit Plans and Programs Postpetition (the "Employee Benefits Order"). Under the Employee Benefits Order, the Debtor is authorized to continue to manage and fund its workers' compensation programs, and to pay pre-petition claims, settlements and assessments arising under such programs, including but not limited to, payments for lost wages, permanency, disfigurement, medical expenses, commutations and settled claims.

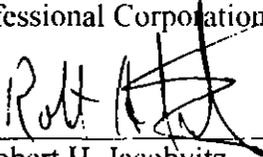
8. In the ordinary course of business, the Debtor settles many of the NM Workers Compensation Claims made against it. Giving the Debtor authority to continue to settle such claims, within the limits set forth herein, is in the interest of the bankruptcy estate and injured employees asserting NM Workers Compensation Claims. Such settlement

authority would save the Debtor the expense of seeking approval of settlements numerous times under circumstances in which the legal fees incurred to seek such authority may be a substantial portion of the amount of the settlement. It would also facilitate settlements, and thereby reduce litigation expenses, if the injured New Mexico employees with whom settlements are reached can count on the settlements being effective. It would further the interests of the administration of the Workers' Compensation Law by facilitating mediations that are part of the process of claims resolutions. Finally, it would benefit injured New Mexico employees by avoiding delay in commencing benefit payments that would be inherent in seeking a separate approval of each settlement.

**WHEREFORE**, the Debtor respectfully requests that the Court enter an order granting Debtor authority to reach binding settlements of NM Workers' Compensation Claims, without further approval of the Court, so long as each settlement reached does not exceed \$10,000 plus medical expenses.

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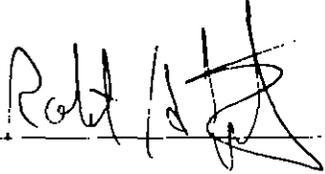
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this 11<sup>th</sup> day of <sup>May</sup> ~~April~~, 2001.

  
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