

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.,

No. 11-01-10779-SA

Debtor.

OFFICIAL COMMITTEE OF UNSECURED CREDITORS'
MOTION TO COMPEL DEBTOR TO PAY EXPENSES OF THE
MEMBERS OF THE OFFICIAL UNSECURED CREDITORS' COMMITTEE
AND THE ATTORNEYS FEES OF THE ATTORNEYS RETAINED BY
THE OFFICIAL UNSECURED CREDITOR'S COMMITTEE

The Official Committee of Unsecured Creditors of Furr's Supermarkets, Inc. (the "UCC" or "the Committee"), by and through its counsel Davis & Pierce, P.C. (William F. Davis, Esq.) and Pepper Hamilton, LLP (Stuart Hertzberg, Esq. and I. William Cohen, Esq.), for its Motion to Compel, STATES:

Official Unsecured Creditors' Committee Member Expenses

1. The Order Granting Official Unsecured Creditors' Committee's Motion for Order Authorizing Reimbursement of Expenses of Members of the Official Unsecured Creditors' Committee was entered on May 2, 2001.

2. The Order provided:

"1. The counsel for the Committee will submit to the Debtor, on a monthly basis, a detailed statement (an "Expense Statement") of expenses incurred by the Committee members during the prior month for which such members seek reimbursement from the estate, as well as any previously unreimbursed expenses, which shall include all supporting vouchers, receipts, and similar documentation. Notice of the Expense Statement and the Expense Statement shall also be filed with the Court clerk. The Debtor shall have until the fifteenth calendar day of the following month after the submission of the Expense Statement to review the Expense Statement (although the Debtor is not required to wait the full fifteen days). In the event there are no objections, the Debtor is authorized to pay 100% of the expenses billed for each month. If the Debtor objects to one or more items on an Expense Statement, it will pay the remaining items on such Expense Statement pursuant to this Order,

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despite such objection.”

3. The UCC has submitted Expenses Statements on the following dates for the following amounts:

\$25,411.18 Submitted on May 22, 2001, but remains unpaid.

4. No amounts have been paid by the Debtor for the Expense Statements which have been submitted.

5. No reason exists for the Debtor not to pay these amounts, other than animus to the Committee, its members and its functions in this Bankruptcy Case.

Davis & Pierce, P.C. - Local Counsel for the Unsecured Creditors' Committee

6. An Order Approving Official Committee of Unsecured Creditors' Motion to Employ Attorneys (Local Counsel) was entered on April 6, 2001, approving the employment of Davis & Pierce, P.C., as local counsel for the Official Committee of Unsecured Creditors'.

7. The Order provides that:

“IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Davis & Pierce, P.C. shall submit monthly invoices to the Debtor and the Debtor shall pay Davis & Pierce, P.C. 75% of attorneys fees billed and taxes thereon, and 100% of costs and expenses as they are invoiced, said payments to be subject to the Court's allowance under 11 U.S.C. §§328(c), 330 and 331, and subject to disgorgement in the event of disallowance.”

Invoices should be paid “as they are invoiced.”

8. *Davis & Pierce, P.C. have submitted the following statements for 75% of fees and 100% of tax costs and expenses:*

February, 2001	<u>\$14,669.24</u>	Paid
March, 2001	<u>\$20,280.46</u>	Paid
April, 2001	<u>\$31,684.49</u>	Submitted, but remains unpaid.

May, 2001 \$20,230.01 Submitted, but remains unpaid.

The May bill does not include charges for the adversary proceeding which is not an authorized expenditure of cash collateral.

9. The Debtor has paid Davis & Pierce, P.C. in full for the months of February and March, 2001, but has not paid the statements for April and May, 2001, after repeated requests.

10. The Debtor has a budget which allows \$600,000 per month set aside for payment of professionals. The UCC is unaware of what amounts have been paid to other professionals.

Pepper Hamilton - Counsel for the Unsecured Creditors' Committee

11. An Order Approving the Application of Chairperson of the Official Committee of Unsecured Creditors' for Order Pursuant to 11 U.S.C. §327(a) Authorizing the Retention and Employment of Pepper Hamilton LLP to Serve as Counsel to the Committee was entered on April 17, 2001, approving the employment of Pepper Hamilton as counsel for the Official Committee of Unsecured Creditors.

12. The Order provides that:

“6. Pepper Hamilton shall submit monthly invoices to the Debtor, with a copy to the United States Trustee, and the Debtor shall pay to Pepper Hamilton 75% of attorneys fees billed and taxes thereon, and 100% of costs and expenses as they are invoiced, said payments to be subject to the Court's allowance under 11 U.S.C. §§330 and 331, and subject to disbursement in the event of disallowance.”

The Order directs the Debtor “shall pay to Pepper Hamilton...as they are invoiced.”

13. Pepper Hamilton have submitted the following statements:

April, 2001 \$136,859.50 Submitted on May 22, 2001, but remains unpaid.

14. The Debtor has paid to Pepper Hamilton in full for the months of February and March, 2001, but has not paid the statements for April, 2001, after repeated requests.

15. The Debtor has a budget which allows \$600,000 per month set aside for payment of professionals. The UCC is unaware of what amounts have been paid to other professionals.

16. Movant has requested concurrence of the Debtor to this Motion but has not received it.

WHEREFORE, the Official Committee of Unsecured Creditors of Furr's Supermarkets, Inc. would ask this Court to Order the Debtor to pay the amounts which have been submitted to Debtor, and which have not been objected to and which are still owing to the Committee's members and its professionals, and direct the Debtor to make timely payments in the future as bills are submitted to the Debtor, in accordance with the Court's previous Orders.

Respectfully submitted,

DAVIS & PIERCE, P.C.



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The undersigned hereby certifies that a true and accurate copy of the foregoing was mailed this 22nd day of June, 2001.

Ron Andazola, Esq.

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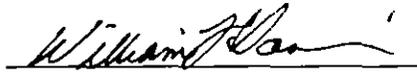
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