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BANKRUPTCY COURT  
ALBUQUERQUE, NM

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.,

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

Debtor.

**MOTION TO REJECT GE CAPITAL EQUIPMENT LEASE FOR STORE #898**

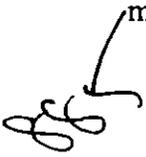
Furr's Supermarkets, Inc. (the "Debtor") moves for an order under 11 U.S.C. § 365(a) approving its rejection of a certain GE Capital equipment lease for store equipment and fixtures at the Debtor's store #898, and states:

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

2. The Debtor requests approval under 11 U.S.C. § 365(a) of its rejection of an equipment lease with GE Capital Business Asset Funding Corporation with respect to the Debtor's store #898 (the "Equipment Lease"). The Debtor requests that the rejection be effective as of the date this motion is filed.

3. The Equipment Lease is costly to maintain, unnecessary, burdensome to the Debtor's ongoing operations and business, and constitutes an unnecessary drain on the Debtor's cash. Store 898 is closed, and the Debtor has no need for the leased equipment.

4. The Debtor's obligation under the Equipment Lease is approximately \$21,356 per month. In addition, the Equipment Lease obligates the Debtor to incur other related charges



associated with the leased equipment. The Debtor has determined in its reasonable business judgment that these costs constitute a substantial and unnecessary drain on the Debtor's cash resources. By rejecting the Equipment Lease now, the Debtor will avoid unnecessary administrative charges that provide no benefit to the estate, creditors, or interest holders.

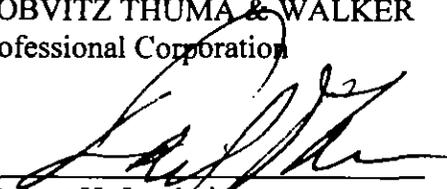
5. For these reasons, the rejection of the Equipment Lease is in the best interests of the Debtor's estate, creditors, and interest holders.

6. Under Bankruptcy Code § 365(a), a debtor "subject to the court's approval, may assume or reject an executory contract or an unexpired lease." Most courts hold that a debtor's decision whether to assume or reject a lease is subject to review under the business judgment standard. The debtor satisfies this standard if it shows in its reasonable business judgment that rejection will benefit the estate. See In re Mile Hi Metal Systems, Inc., 899 F.2d 887, 896 n. 13 (10th Cir. 1990) (Seymour, J. concurring) (so-called "business judgment" test applies to ordinary executory contracts); In re Federated Dept. Stores, Inc., 131 B.R. 808, 811 (S.D. Ohio 1991) ("Courts traditionally have applied the business judgment standard in determining whether to authorize the rejection of executory contracts and unexpired leases"); Commercial Fin., Ltd. v. Hawaii Dimensions, Inc. (In re Hawaii Dimensions, Inc.), 47 B.R. 425, 427 (D. Haw. 1985) ("Under the business judgment test, a court should approve a debtor's proposed rejection if such rejection will benefit the estate.") (citation omitted). If a debtor has exercised its business judgment reasonably, the Court should approve the proposed assumption or rejection. Sharon Steel Corp. v. National Fuel Gas Distribution, 872 F.2d 36, 39-40 (3d Cir. 1989).

WHEREFORE, the Debtor respectfully requests that the Court enter an order approving the

Debtor's rejection of the Equipment Lease as of the date this Motion is filed, and granting all other just and proper relief.

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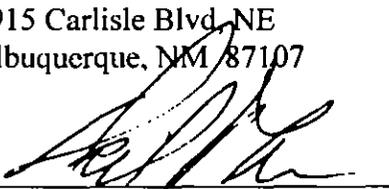
This certifies that on August 13, 2001,  
a copy of this Motion was mailed by  
First Class United States mail to:

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

David T. Thuma