

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

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

**IN RE:** Case No. 11-01-10779 SA  
**FURR'S SUPERMARKETS, INC.,** Chapter 11  
**Debtor.**

**JOE G. MALOOF'S OBJECTION TO DEBTOR'S  
AMENDED MOTION FOR (i) APPROVAL OF WIND-DOWN BUDGET  
(ii) APPROVAL OF CASH COLLATERAL STIPULATION  
(iii) AUTHORITY TO APPLY FUNDS AND OPERATE IN ACCORDANCE  
WITH THE WIND-DOWN BUDGET WITHOUT FURTHER COURT ORDER,  
(iv) APPROVAL OF EMPLOYEE RETENTION PLAN (v) AN ORDER  
DIRECTING DISBURSEMENT OF FLEMING SALE PROCEEDS AND OTHER  
DEBTOR PROPERTY (vi) APPROVING THE SETTLEMENT OF ALL ESTATE  
CLAIMS AGAINST THE SECURED LENDERS, AND (vii) ALLOWING  
CLAIMS OF SECURED LENDERS**

TO THE HONORABLE JAMES S. STARZYNSKI

Comes now, Joe G. Maloof and Company, a liquor wholesaler and creditor of Furr's Supermarkets, Inc., Debtor-in-Possession, by and through its attorneys, Marchiondo Vigil & Associates P.C. (Kimberly A. Middlebrooks) and Philip Marchiondo, and hereby objects to the above captioned Motion and in support thereof,

**STATES:**

1. Joe G Maloof and Company objects to Section IV Retention and Investment of a Portion of the Initial Sale Proceeds, paragraph 16(c) which states, "\$4,174,000 as adequate protection for alleged lien claims of liquor wholesalers who have timely asserted required pleadings pursuant to the Final DIP Order " The effect of the DIP Order upon the liquor license wholesalers is currently in litigation. The Wind-Down

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Order should give effect to the rulings of the Court, which will be made at some point in the future. Furthermore, effect must be given to the rulings to be made by the Court regarding whether this Bankruptcy Court may force the Director of Alcohol and Gaming to transfer the liquor licensed in violation of New Mexico Law. Finally, Joe G. Maloof and Company objects to the amount sought to be retained since it is unclear whether this amount is sufficient to pay all of the liquor wholesalers in full in the event that they are successful in the pending litigation.

2. Joe G. Maloof objections to Section VII. Allowance of Secured Lender's Claims, paragraph 22 which states, "Finally, to facilitate the implementation of the Cash Collateral Stipulation and the relief sought herein, the Debtor asks the Court to allow in full the claims of the Secured Lenders, to the extent of the value of all Collateral (as defined in the Final DIP Order), and as unsecured claims to the extent of any deficiency claims that exist after giving effect to the receipt of proceeds of Collateral, subject only to the rights of the following parties to assert that their respective security interests are senior to the security interests of the Secured Lenders: Premier Distributing Company, Inc. The New Mexico Beverage Company, Inc., National Distributing Company, Inc., and Southern Wine and Spirits, Inc. (with respect to claims asserted in specific adversary proceedings)..." Joe G. Maloof and Company never received notice of the Final DIP Order thus preventing it from protecting its interests. Furthermore, it is unclear whether a response to the Final DIP Order was necessary in order to protect the interests of the liquor wholesalers. The pending litigation will resolve these matters. It is premature for the Debtor to only protect certain liquor wholesalers in light of the pending litigation. Joe G. Maloof and Company has filed a Motion to Intervene in the adversary proceeding

described above. It appears that the Debtor is taking an end run at the litigation by its proposed Wind-Down Order. This is not proper.

WHEREFORE, Joe G. Maloof and Company prays that this Court deny the Motion, prays that this Court enter an Order which will properly protect all of the interests of the liquor wholesalers in light of the pending litigation, and prays for such other and further relief as this Court deems just and proper.

Respectfully submitted,

**Marchiondo Vigil & Associates, P.C.**



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**Certificate of Service**

I hereby certify that a true and correct copy of the foregoing has been served by first class United States mail on this 23<sup>rd</sup> day of August 2001, to all parties listed below.

  
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