

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

FILED
01 SEP 10 PM 1:39
U.S. BANKRUPTCY COURT
ALBUQUERQUE, NM

In re:

FURR'S SUPERMARKETS, INC.,

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

Debtor.

OBJECTION TO PEPPER HAMILTON'S FIRST INTERIM FEE APPLICATION

Furr's Supermarkets, Inc., debtor in possession ("Furr's"), objects to the First Interim Application by Pepper Hamilton LLP, Counsel for the Unsecured Creditors' Committee, for Allowance and Payment of Compensation for Services Rendered for the Period February 14, 2001 Through June 30, 2001 (the "Fee Application") and states:

1. Furr's objects to the Fee Application because it appears there was duplication of services by Pepper Hamilton and the Unsecured Creditors' Committee's (the "Committee's") local counsel. Furr's objects to the extent of the unnecessary duplication.

2. Furr's objects to the Fee Application because it appears that even within Pepper Hamilton, attorneys and legal assistants duplicated work such as attending hearings, attending committee meetings, reviewing court filings, and other matters. Furr's objects to the extent of the unnecessary duplication.

3. Furr's objects to the Fee Application because it appears Pepper Hamilton continued to perform a substantial amount of work after it became apparent that there would be little or no money available for a dividend to unsecured creditors, to the extent such work was unnecessary and/or the amount sought is not reasonable.

4. Furr's objects to the Fee Application because the amount should be reduced

W053

given the degree of benefit to the estate from the \$630,278.26 charged to the estate. The following summarizes the principal actions taken by the Committee in this case:

Action	Date Taken	Result
Application to Employ Pepper Hamilton	2/20/01	Granted
Application to Employ Davis & Pierce	2/20/01	Granted
Application to Allow Reimbursement of Committee Expenses	2/26/01	Granted in part
Objection to the Final DIP Order	2/27/01	Overruled (except with respect to ability to object to secured lender's liens)
Objection to application to employ Robert L. Berger	3/2/01	Overruled
Application to Employ Deloitte & Touche	3/14/01	Granted
Objection to Application to Employ Skadden Arps	3/19/01	Overruled
Objection to debtor's ordinary course professional motion	3/22/01	Pending
Objection to debtor's motion to extend time to assume or reject executory contracts	3/23/01	Overruled
Objection to the debtor's application to employ Peter J. Solomon	4/16/01	Overruled

Objection to debtor's motion to approve retention plan, to employ Golleher and Mays, and to enter into consulting agreement with Tom Dahlen	4/18/01	Overruled in part; the debtor withdrew the balance of the motion
Objection to Pinnacle motion to force debtor to assume or reject executory contract	5/16/01 (the debtor also objected)	Sustained
Application to employ Chanin Capital Partners	5/17/01	Granted in part, but compensation limited to \$300,000
Objection to final DIP order, and related adversary proceeding challenging liens of secured lenders	5/23/01	pending
Application regarding payment of Committee's professional fees and expenses	5/30/01	pending
Emergency Motion to Appoint Trustee	6/1/01	Tabled 6/19/01
Objection to motion to extend exclusivity	6/4/01	pending
Objection to Pinnacle's emergency motion for relief from stay	6/5/01 (the debtor also objected)	settled
Objection to the debtor's motion to sell assets	6/21/01	Withdrawn at the final hearing
Application for approval of Committee expenses	8/17/01	pending
Objection to Wind-Down Motion	8/23/01	pending (sustained as to notice)

A review of the Committee's activity shows that the Committee's major success has been in obtaining employment of Committee professionals. The Committee also objected to the Debtor's rejection of professionals, and other motions, and otherwise participated in the case. The outcome of the major Committee litigation, seeking to avoid the liens of the debtor's secured lenders, is uncertain and, in any event, is being pursued by the Committee's local counsel, not Pepper Hamilton.

5. Furr's objects to the fax charges at \$1.00 per page as being excessive and unreasonable.

6. Furr's objects to the copy charges of \$.20 per page as being excessive and unreasonable.

7. Furr's objects to the Fee Application to the extent it seeks allowance for two partners, an associate, and a legal assistant (a total of \$1150 per hour) to attend some Committee meetings, to the extent such expenses are unnecessary and unreasonable.

8. Furr's objects to the approximately \$250,000 charged to the estate for preparing for, traveling to, and/or attending Committee meetings, to the extent unreasonable and excessive, and of insufficient benefit to the estate.

9. Furr's objects to the meal charges of \$1,258.14 on April 24, 2001 and \$826.47 on May 7, 2001.

10. Pepper, Hamilton's fees also should be considered in relation to the total fees and expenses charged by the Committee and its professionals in this case. The Debtor is informed and believes that the Committee's professionals, excluding its investment banker Chanin & Associates, charged the estate about \$1.5 million, or about \$330,000 per month,

for services rendered over about a 4 ½ month period through June 30, 2001. This figure consists of about \$630,000 by Pepper Hamilton, about \$165,000 by Davis & Pierce, and about \$700,000 by Deloitte & Touche. The Committee itself is seeking reimbursement of \$35,648 in expenses. Furr's objects that this overall amount is too high, and the amount of compensation to be allowed to Pepper Hamilton should be determined in connection with allowance of compensation to the other Committee professionals, so the overall amount is reasonable.

11. It appears that, in addition to three or four Pepper Hamilton billing professionals, the Committee's local counsel, one or more Deloitte & Touch professionals, and/or one or more Chanin Capital Partners, LLC professionals also attended Committee meetings. In addition, the Committee members also are seeking reimbursement of substantial expenses incurred attending Committee meetings. Such attendance and related expenses are excessive and unreasonable, causing the Committee meetings to be enormously expensive.

12. Furr's objects to the Fee Application because of the number of partners, associates, and legal assistants who worked on the Furr's case. Nine Pepper Hamilton partners, two associates, two legal assistants, one "document clerk," and one "project assistant" billed time to the Furr's case. The use of fifteen billing professionals is unnecessary and unreasonable in this case, and caused the amount billed to be too high.

13. Furr's objects to all time billed for the Committee's motion to appoint a trustee, which motion was never pursued, had no merit, did not benefit the estate, and was a waste of time and money.

14. Furr's objects to the Fee Application to the extent it seeks allowance of fees

prior to February 20, 2001, the date the Committee filed its application to employ Pepper Hamilton.

WHEREFORE, Furr's prays that the Application be denied to the extent set forth above, and for all other just and proper relief.

JACOBVITZ THUMA & WALKER
A Professional Corporation

By: 
David T. Thuma
500 Marquette N.W., Suite 650
Albuquerque, New Mexico 87102
(505) 766-9272
(505) 766-9287 (fax)
Counsel for Furr's Supermarkets, Inc.

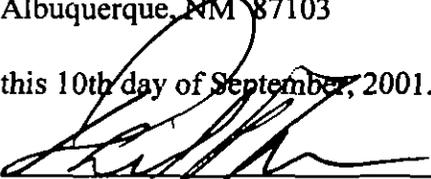
The undersigned hereby certifies that a copy of the foregoing was mailed to:

William F. Davis
P.O. Box 6
Albuquerque, NM 87103

Stuart Hertzberg
Pepper Hamilton, LLP
100 Renaissance Center, Suite 3600
Detroit, MI 48243

United States Trustee
P.O. Box 608
Albuquerque, NM 87103

this 10th day of September, 2001.


David T. Thuma