

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO**

IN RE:

FURR'S SUPERMARKET, INC.,

Debtor.

No. 11-01-10779 SA

**OBJECTION TO FIRST INTERIM FEE APPLICATION OF SKADDEN,
ARPS, SLATE, MEAGHER & FLOM LLP**

COMES NOW the United States Trustee for the District of New Mexico and pursuant to 28 U.S.C. §586(a)(3)(A) hereby objects to the First Interim Fee Application of Skadden, Arps, Slate Meagher & Flom LLP (Application) and states as follows:

1. The time expended in rendering numerous services appears to be excessive and/or unnecessary. Examples include, but are not limited to the following:

(a) Six different Skadden attorneys performed services in connection with the employee retention and severance motion, which was partially withdrawn and substantially modified in response to objections thereto.

(b) Although the Debtor filed its motion for an order approving the sale of its assets on June 1, 2001, Skadden billed \$25,277 in connection with a reorganization plan and \$11,913.4 for the preparation of a disclosure statement, neither of which were filed and most of which services were rendered in May 2001.

(c) Between February 13, 2001 and February 27, 2001, Skadden spent approximately 39.8 hours drafting and redrafting an asset purchase agreement, well in advance of the actual auction sale in June 2001. Since it is highly likely that Skadden has forms of asset purchase agreement from prior cases in which it was involved, the

expenditure of this time to draft an agreement without specifics is excessive at best and unnecessary at worst.

(d) The Application indicates that, at the first day hearings, Skadden utilized six attorneys and billed approximately 74 hours for a total of approximately \$31,400 in fees.

(e) In connection with the preparation and filing of several motions, briefs, and other pleadings, numerous reviews and revisions by multiple attorneys were excessive and unnecessary. This is particularly so giving the impressive qualifications of Skadden attorneys.

2. Skadden rendered services which were beyond the scope of its employment. Specifically, Skadden provided substantial services in connection with the creation and staffing of a “data room” in Albuquerque. Expenses associated with this included, but are not limited to, the travel expenses for legal assistants, the billing of 50 percent of their hourly rates for travel time, and their full hourly rate for time spent in the data room. Since Skadden had vigorously pursued and obtained approval of the employment of Peter J. Solomon Co., Ltd. to perform marketing and other services for the Debtor, the provision of these services is duplicative as well as beyond the scope of its employment.

3. Numerous entries by legal assistants appear to be for clerical services. These include, but are not limited to entries for distributing notices, pleadings, and other mail.

4. Counsel has the burden of showing that its fees have benefitted the estate. In re Lederman Enterprises, Inc. 997 F.2d. 1321 (10th Cir.1993). While the United States Trustee does not contest that Skadden did indeed provide valuable services, she contest that the benefit conferred is commensurate with the amount requested.

Wherefore, the U.S. Trustee objects to the application for the above stated reasons.

Respectfully submitted,

BRENDA MOODY-WHINERY
United States Trustee

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I HEREBY CERTIFY that a true copy of the foregoing has been mailed to the following counsel on this 17th day of September 2001.

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