

**FILED**  
12:00 MIDNIGHT  
**OCT 23 2001**  
**DROP BOX**  
United States Bankruptcy Court  
Albuquerque, New Mexico

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.  
Tax I.D. No. 22-3137244

Case No. 11-01-10779 SA

Debtor:

**UNITED STATES TRUSTEE'S OBJECTION TO  
MOTION FOR ORDER AUTHORIZING AND COMPELLING DEBTOR TO PAY  
PROFESSIONAL FEES DUE AND OWING TO PETER J. SOLOMON CO., LTD.**

The United States Trustee for the District of New Mexico hereby objects to the Motion for Order Authorizing and Compelling Debtor to Pay Professional Fees and Expenses Due and Owing to Peter J. Solomon Company (Motion), and as her reasons therefore states the following:

1. The basis on which Peter J. Solomon Co. (PJSC) computes its claimed fees is unclear and requires further disclosure and justification, including but not limited to the following:

A. Expenses of \$83,699.05 appear to be excessive and cannot be approved absent full disclosure with opportunity to object thereto.

B. PJSC includes in its computations repayment of short-term debt in the amount of \$19 million. The computations arriving at this amount should be fully disclosed with opportunity to object thereto.

2. The retention order entered herein on September 17, 2001, does not make express specific reference to the timing of payment to PJSC while the order approving sale dated June 30, 2001 specifically states that the Debtors are precluded from disbursing any of the Fleming sale proceeds without further order of the court. The specific provisions of the order approving sale therefore should govern the payment of funds to PJSC.

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3. To the extent that payments to PJSC must be made from funds available to pay administrative expenses, objection is made to disbursement on the basis that this case is currently administratively insolvent. Unless substantial recoveries are made on potential avoidance actions, there will be insufficient funds from which to pay all administrative claimants. The payment of funds to PJSC at this point, appears likely result in disgorgement actions by other administrative claimants.

4. To the extent that payments to PJSC would result in additional liens on the proceeds of avoidance actions, objection is made thereto. In the likely event of conversion to a chapter 7 proceeding, increases in the amount of liens against avoidance actions will only make a trustee's collection of these previously unencumbered assets more problematic.

5. To the extent that payments to PJSC are proposed from the carve out for professional fees set forth in the DIP order, PJSC would be paid disproportionately as compared to other professionals in this case. Payment should be made pro rata to all professionals once all fees are approved by the Court.

Respectfully submitted,

BRENDA MOODY WHINERY  
United States Trustee



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The undersigned certifies that a true and accurate copy of the foregoing was mailed to the below listed counsel this 23<sup>rd</sup> day of October, 2001.

  
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