

UNITES STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

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

IN RE:

FURR'S SUPERMARKETS, INC.

Case No. 01-10779-SA

Debtor

Chapter 11

**OBJECTION TO THE SECOND INTERIM
APPLICATION BY ATTORNEYS FOR THE UNSECURED
CREDITORS' COMMITTEE FOR ALLOWANCE AND PAYMENT OF
COMPENSATION**

Heller Financial, Inc. as agent for itself, Bank of America, N.A., Fleet Capital Corporation and Metropolitan Life Insurance Company ("Heller") objects to the Second Interim Application by Attorneys for the Unsecured Creditors' Committee ("UCC") for Allowance and Payment of Compensation for July 1, 2001, to September 26, 2001 ("Second Fee Application") and states:

1. Heller incorporates by reference its prior objection to the Fee Application of Davis & Pierce.
2. Heller incorporates by references its prior objection the First Interim Application for Fees by Pepper Hamilton, LLP ("Pepper").
3. The Second Fee Application like the first Fee Application demonstrates that Pepper over-staffed and over-worked this case given the financial condition of the Debtor in this case. As noted in the objection to the First Interim Application, Pepper sent three lawyers, plus a paralegal to meetings of the UCC (in addition to Mr. William Davis) in cities across the country. Given the circumstances of this case, all or essentially all meetings should have been held telephonically. The amounts charged for UCC meetings, including expenses, is unjustified and unnecessary.

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4. The Fee Application reveals duplication of services of Mr. Cohen (\$425.00 per hour) with Mr. Hertzberg (\$450.00 per hour).

5. The Fee Application demonstrates that Pepper handled its staffing and work on this case in a manner completely inconsistent with the known financial condition of the Debtor in this case and the stake its client, the UCC, had in the case. Some charges in the Fee Application appear to be inflated. Additionally, some charges are inappropriate or miscategorized. For instance, the time summary shows time spent on a "Plan and Disclosure Statement." No plan has been filed in this case, so that time is inappropriate.

6. The fee application does not reveal the category of work for each time entry, so the summary of time spent in each category cannot be verified.

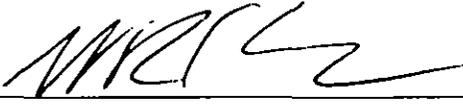
7. The First Interim Application by Pepper sought approval and payment of fees in the amount of \$630,278.26 and expenses of \$46,475.51. Additionally, the UCC has requested allowance of compensation and reimbursement of expenses to Deloitte & Touche LLP and Deloitte Consulting L.P. (jointly "Deloitte") for the period of February 21, through August 31, 2001. of \$1,065,205.97. The UCC's local counsel Davis & Pierce, P.C., has filed a First Interim Fee Application for fees of \$164,423.09. Therefore, the total compensation and expenses requested, so far, by professionals to the UCC is \$1,906,382.83. Given the financial condition of the Debtor, which was, or should have been, known to the professionals well in advance of the incurrence of such fees and expenses, nearly two million dollars in fees and costs is unreasonable under the circumstances.

8. At this time, the only source of recovery for the UCC is in actions adverse to Heller. Pepper is barred from participating in such actions and may not be paid from such proceeds.

9. Given the small likelihood that funds will be available to pay the various UCC Fee Applications, and the fact that the professionals knew or should have known of the financial condition of the Debtor before the majority of such fees were incurred, Heller suggests that a final determination of the allowability of such fees need not be made until it appears that funds will be available to pay such fees.

WHEREFORE, *Heller Financial, Inc., as agent for itself, Bank of America, N.A., Fleet Capital Corporation and Metropolitan Life Insurance Company* ("Heller") respectfully requests that the Court deny the Second Interim Application by Pepper Hamilton, LLP, counsel for Unsecured Creditors' Committee, for allowance and compensation for services rendered for the period February 14, 2001, to June 30, 2001, and for such other and further relief as the Court deems appropriate.

MODRALL, SPERLING, ROEHL, HARRIS
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By: 

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WE HEREBY CERTIFY that a true
and correct copy of the foregoing pleading
was mailed to the following this 25th day
of October, 2001.

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