

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

FILED
12:00 MIDNIGHT
JUN 28 2001

IN RE:

CASE NO. 11-01-10779-SA

FURR'S SUPERMARKETS, INC.,

DROP BOX
United States Bankruptcy Court
Albuquerque, New Mexico

DEBTOR.

**OBJECTION BY GREENLEAF COMPACTION, INC. TO
APPROVAL OF OFFER BY FLEMING COMPANIES, INC.
TO PURCHASE DEBTOR'S ASSETS**

COMES NOW, Greenleaf Compaction, Inc., (hereinafter "Greenleaf") by and through its counsel as undersigned and does hereby file its objection to the Debtor's motion to approve the Purchase Offer by Fleming Companies, Inc. to purchase some or all assets of the Furr's Supermarkets, Inc., (hereinafter "Furr's") the Debtor herein. As grounds therefore, Greenleaf Compaction, Inc. states:

1. Greenleaf Compaction, Inc. has entered into a Master (Lease) Agreement (hereinafter the "Lease") with Furr's Supermarket Inc. ("the Debtor") and Greenleaf Compaction, Inc., dated on or about July 15, 1996, which in summary, provided that Furr's would lease from Greenleaf multiple compaction and bailing units for virtually all of the Debtor's grocery stores. The amount of equipment that was leased to the Debtor is substantial and the monthly rental is approximately \$50,000.00.

2. Greenleaf is owed pre-petition unpaid lease payments.

3. Upon information and belief, the Lease between the Debtor and Greenleaf was in default pre-petition.

4. Greenleaf recently received a copy of the Asset Purchase Agreement dated June 25, 2001, between the Debtor and Fleming Companies, Inc., (hereinafter "Fleming"). The Asset Purchase

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Agreement was the bid which was tentatively accepted by the Debtor, subject to court approval, at the auction held on June 27, 2001. The Asset Purchase Agreement is incomplete and does not provide an adequate or sufficient description of the treatment of the Lease.

5. The Asset Purchase Agreement is vague and ambiguous and does not provide sufficient information to Greenleaf to make an informed judgment as to the treatment of its Lease with the Debtor.

6. Greenleaf has made an effort and has contacted representatives of the Debtor and Fleming for the purposes of determining what the proposal effect of the Agreement is on Greenleaf Leases. However, to date, Greenleaf has been unable to clarify how Fleming intends to deal with these leases.

7. Upon information and belief, Fleming, pursuant to the terms of the proposed agreement has reserved the right to deal with the equipment lease at each location separately.

8. The Asset Purchase Agreement is ambiguous as to whether Fleming will assume or reject all or some of the Greenleaf leases. The Asset Purchase Agreement is also ambiguous as to whether the Debtor and/or Fleming will comply with 11 U.S.C. § 365 (b) and (f), including but not limited to curing any default, compensating Greenleaf for unpaid pre-petition lease payments and providing adequate assurance of future performance by any assignee.

9. The proposed assignee, Fleming, has provided no information concerning its ability to provide adequate assurance of future performance and/or its intentions on retaining all or some of the equipment pursuant to the Lease.

WHEREFORE, Greenleaf Compaction, Inc. respectfully requests the Court to enter an order denying approval of the Fleming Companies, Inc. Asset Purchase Agreement, or in the alternative, as may be necessary, to exclude any provisions in the Asset Purchase Agreement that may effect

Greenleaf Compaction, Inc., and its Lease until such time as the Debtor and the Purchaser provide adequate information and/or until applicable bankruptcy law can be complied with and for such further relief as the Court deems just herein.

Respectfully submitted,

PUCCHINI & MEAGLE, P.A.

By: 

Louis Puccini, Jr.

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I hereby certify that a true and correct copy of the foregoing pleading was mailed on this 28th day of June, 2001 to the following:

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