

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO

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

Case No. 11 01-10779 SA

IN RE

FURR'S SUPERMARKETS, INC.,

Debtor.

**GE CAPITAL BUSINESS ASSET FUNDING'S OBJECTION
TO MOTION FOR ORDER APPROVING PROCEDURE RELATING
TO § 365(b)(1) CURE AND ADEQUATE ASSURANCE REQUIREMENTS
FOR ASSUMPTION OF LEASES AND MOTION FOR ORDER APPROVING
PROCEDURE RELATING TO § 365(f)(2) ADEQUATE ASSURANCE
REQUIREMENT FOR ASSIGNMENT OF LEASES**

GE Capital Business Asset Funding ("GE"), files this its objection to Furr's Supermarkets, Inc., debtor and debtor in possession ("Debtor"), Motion for Order Approving Procedures Relating to the §365(b)(1) Cure and Adequate Assurance Requirements for Assumption of Leases (hereinafter "§365(b)(1) Motion") and Motion for Order Approving Procedure Relating to the §365(f)(2) Adequate Assurance Requirement for Assignment of Leases (hereinafter "§365(f)(2) Motion" and collectively the "Motions"), and states as follows:

1. Although not stated in the §365(b)(1) Motion nor §365(f)(2) Motion GE has come to learn that it is the intent of Debtor's counsel that Rule 9006 (a) of the Bankruptcy Rules should not apply to the time periods set forth in the Motions. Because of the extremely short time periods involved in the Motions, GE objects to any attempt by Debtor to further limit the time by computing the time outside of the controlling provisions contained in Rule 9006 (a). The general provisions surrounding the computation of time should not be set aside, particularly in light of the fact that neither Motion contains any reference to the inapplicability of Rule 9006 (a), thereby not giving

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notice to any of the interested parties as to the intent of Debtor to shorten the time periods beyond the ordinary counting procedures of Rule 9006 (a).

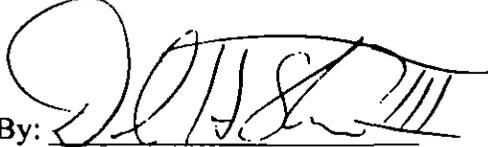
2. GE further objects to the unreasonably short time period contained in the §365 (f)(2) Motion which only allows for five (5) days from receipt of a copy of the Third Party Purchaser Notice, as defined in that Motion. The circumstances are such that at this point in time none of the parties affected by this Motion has any ideas who are the potential purchasers and assignees of the particular stores. A more reasonable period of time would be the seven-day time period contained in the §365(b)(1) Motion of seven (7) days, including the standard computation time contained in Bankruptcy Rule 9006 (a). Without allowing for reasonable time for lessors to adequately review potential assignees on adequate assurance issues will lead to the necessity of lessors having to file objections in order to protect their positions. Such objections then might be withdrawn at a later date. This procedure will result in unnecessary expense to the lessors and possible to the Debtor as a result of increased claims for attorney fees and will unnecessarily waste the Court's time.

3. GE further objects to the Confidentiality Protective Order contained in Exhibit A, attached to the §365(f)(2) Motion in that the restrictions contained in paragraph 6., Deposition Procedures, does not allow for client representatives to be present at any deposition involving depositions taken in the §365(b)(1) litigation. Limiting a representative of any interested party taking a deposition under such circumstances is unreasonable and again changes the standard rules applicable to depositions of this type contained in the Bankruptcy Rules.

WHEREFORE, G E respectfully requests that the Motions as presented be denied without modifications being required as based upon the objections as set forth above.

Respectfully submitted.

Dave Thomas & Associates, P.C.

By: 

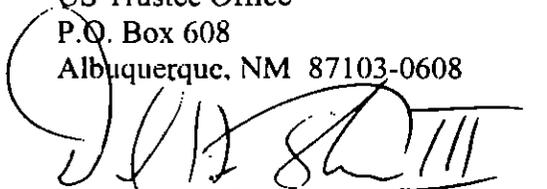
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I HEREBY CERTIFY that a true copy of the foregoing was faxed and mailed on the 19~~th~~ day of July, 2001 to the following counsel of record.

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