

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.,  
A Delaware corporation,

Case No. 01-11-10779 SA  
Chapter 11

Debtor.

**OBJECTION OF TRI-STATE COMMERCIAL ASSOCIATES TO  
DEBTOR'S NOTICE OF PROPOSED CURE AMOUNTS**

Tri-State Commercial Associates (Tri-State), a creditor and party in interest in the above styled and numbered bankruptcy case, hereby files this its Objection to Debtor's Notice of Proposed Cure Amounts, as follows:

1. Debtor filed its voluntary petition for relief under Chapter 11 of Title 11 of the United States Code on February 8, 2001. Debtor continues in possession of its property and operation of its business as a debtor-in-possession pursuant to 11 U.S.C. §§ 1107 and 1108.
2. Tri-State is the lessor under an unexpired lease of non-residential real property (the "Lease") designated as location no. 987 in Schedule "A" to the Notice of Proposed Cure Amounts. The Lease covers certain premises located at 1300 W. Dickenson Blvd., Fort Stockton, Texas (the "Premises").
3. Section 365(a) provides that, with some notable limitations, the trustee or debtor-in-possession, subject to the court's approval, may assume or reject any executory contract or unexpired lease of the Debtor. One of the important limitations on the Debtor's right to assume a lease is the Debtor's obligation to cure any default under the lease. Section 365(b)(1) provides a guarantee to the non-debtor party, who may be forced to continue a relationship it would rather terminate, that as a condition to the forced continuation of the contractual relationship, any losses or defaults existing at the time will be satisfied either through a timely cure or through reasonable assurances of future payments.

4. The Debtor's Notice does not provide for cure of all defaults under the Tri-State Lease. While the Debtor's Schedule "B" attached to the Notice correctly states the pre-petition default of rent in the amount of \$1,452.98. Schedule "B" of the Notice incorrectly specifies the Debtor's default in its obligations to reimburse Tri-State for its portion of the 2000 ad valorem property taxes. The Debtor's portion of the taxes assessed against the leased premises for the year 2000 were in the amount of \$7,728.01. Tri-State received the tax bill in the normal course and paid it, and in March 2001, sent the Debtor an invoice for the 2000 taxes. Tri-State objects to the Notice insofar as it does not accurately provide for cure of the Debtor's default under its obligations under the Tri-State Lease to reimburse Tri-State for the 2000 taxes. A copy of the tax bill submitted to the Debtor is attached hereto as Exhibit "1."

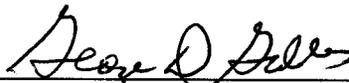
5. In addition, Tri-State objects to the Notice because it does not provide for the payment of outstanding post-petition amounts owed under the Lease. Specifically, rent for the month of August 2001, in the amount of \$5,811.91 has not been paid, and is now due. Rent in a like amount will come due in each month until the assumption and assignment of the Lease are approved, and the proposed assignee of the Lease takes possession.

6. Additionally, under the terms of the Lease, Debtor is to reimburse Tri-State for damage caused to the Leased Premises by Debtor and its agents. In May 2001, a delivery truck caused damage to the Premises, which Tri-State repaired, and for which Debtor was billed. Debtor has not yet reimbursed Tri-State for this expense. Copies of the documentation relating to the repair of the Premises are attached hereto as Exhibit "2."

WHEREFORE, Tri-State Commercial respectfully requests the Court to condition the approval of the assumption and assignment of the Lease upon payment to Tri-State by the Debtor or the proposed assignee of the amounts specified in paragraphs 4,5 and 6 hereof, and enter such other and further relief that the Court deems just and proper.

Respectfully submitted:

Law Office of George "Dave" Giddens, P.C.



By: George "Dave" Giddens  
*Attorneys for Creditor Tri-State Commercial  
Associates*  
10400 Academy, Suite 350  
Albuquerque, NM 87111  
(505) 271-1053  
(505) 271-4848 FAX

This certifies that a copy  
of the foregoing document  
was served by mail and by e-mail on:

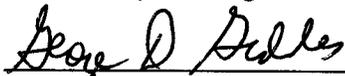
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Meagher & Flom, LLP  
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& Stephen J. Lubben  
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Los Angeles, CA 90071-3144  
slubben@skadden.com

William F. Davis  
Davis & Pierce, P.C.  
P.O. Box 6  
Albuquerque, NM 87102

U.S. Trustee  
P.O. Box 608  
Albuquerque, NM 87103

this 9th day of August, 2001.



George "Dave" Giddens

**FAXED**

03/05/2001

REAL ESTATE DEPT  
FURR'S SUPERMARKETS INC  
FURR'S FOOD #987  
P.O. BOX 10267  
ALBUQUERQUE NM 87184

Re: 2000 PROPERTY TAX BILL BACK FOR: FURR'S FOOD #987

Under the terms and conditions of your Lease Agreement  
with \*TRI STATE COMMERCIAL ASSOC.\*,  
as Lessee or Tenant, you are obligated to pay ad valorem taxes or  
ad valorem tax increases on the property you occupy.

A copy of the 2000 tax statement(s) is enclosed  
and the following shows how we arrived at the amount for which  
you are liable.

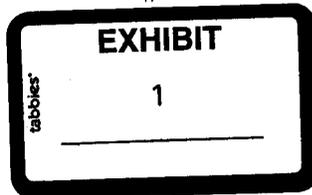
LEASED SPACE: 1300 W. DICKERSON FORT STOCKTON, TX  
TOTAL SQUARE FEET IN CENTER: 25,600.00  
TOTAL SQUARE FEET OF LEASED SPACE: 25,600.00  
% OF CENTER YOU OCCUPY: 100.00%  
LIABILITY BASED ON BASE TAX 76  
DAYS PER THIS YEAR: 365  
2000 PERCENTAGE OF OCCUPANCY: 100.0%(365 /365 times100.00)

TAX PAID IN 2000	12,324.01
LESS TAX PAID (IF ANY) IN YOUR BASE YEAR	-2,020.00
TOTAL AMOUNT OF TAX BASE	10,304.01
MULTIPLIED BY PERCENTAGE YOU OWE THIS YEAR X	75.00%
AMOUNT OF TAX DUE OR CAP (IF ANY)	7,728.01
(whichever smaller)	
LESS ANY PREVIOUSLY PAID	-0.00
<b>AMOUNT DUE AND PAYABLE</b>	<u>7,728.01</u>
	=====

Please send your check in the amount of \$7,728.01  
payable to \*TRI STATE COMMERCIAL ASSOC.\* c/o Quine & Associates, Inc.  
P.O. Box 833009, Richardson, TX 75083-3009.

Sincerely,

STACIE PATTERSON  
972-669-8440



**TRI-STATE COMMERCIAL ASSOC.**

P O Box 833009  
 Richardson, TX 75083-3009  
 972-669-8440 fax 972-783-8901

Invoice No.

**INVOICE**

**Customer**

Name Furr's Supermarkets #987  
Attn: Real Estate Dept.  
 Address P O Box 10267  
 City Albuquerque State NM ZIP 87184  
 Re: 1300 W Dickerson, Ft Stockton, TX 79408

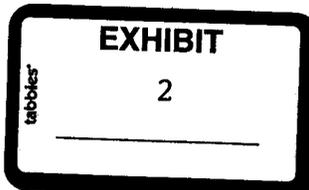
Date 7/2/01  
 Order No. \_\_\_\_\_  
 Rep C. Westenhiser  
 FOB \_\_\_\_\_

Qty	Description	Unit Price	TOTAL
1	Repair fascia damaged by delivery truck.	\$1,677.87	\$1,677.87

**Payment Details**

Cash  
 Check

SubTotal	\$1,677.87
Shipping & Handling	\$0.00
Taxes	
<b>TOTAL</b>	<b>\$1,677.87</b>





**JOE ABUATA CO**  
COMMERCIAL REMODELING

P.O. Box 13401 • Arlington, Texas 76094-0401 • Toll Free (877) 399-4054 • FAX (817) 465-5006

TO:  
T S C A  
C/O QUINE & ASSOCIATES, INC.  
P. O. BOX 833009  
RICHARDSON, TEXAS 75083  
ATTN: MR. CHUCK WESTENHISER

INVOICE NO. 7200  
DATE 5-21-01  
THIS BILL IS RENDERED ONLY AS AN ACCOMMODATION  
TERMS ARE NET CASH AND PAYABLE ON PRESENTATION  
YOUR ORDER NO. \_\_\_\_\_

FOR LABOR AND SERVICES FURNISHED ON: TS#179  
FORT STOCTON

EXTERIOR REPAIRS ON STUCCO FASCIA THAT WAS HIT:  
REPAIR TWO DAMAGED AREAS USING TWO COATS OF  
CEMENT AND ONE COAT OF STUCCO  
PAINT REPAIRED AREA TO MATCH EXISTING  
SCRAPE OFF FLAKING PAINT ON FASCIA AND PAINT TO  
MATCH EXISTING

LABOR & MATERIAL	\$ 1,550.00
TAX	127.87
TOTAL	<u>\$ 1,677.87</u>

*PAID*

THANK YOU FOR YOUR BUSINESS

*Furr's*

TS 179 4105  
~~4095~~  
5/30/01 Amt. 1,677.87  
*cw*

BILL BACK TO TENANT

CENTER TS 179

TENANT Furr's Foods

VENDOR Joe Abwatta Co.

AMOUNT TO BILL TENANT 1,677.87

WORK DONE Repair damage to fascia

REASON \_\_\_\_\_

Deliver truck backed up to building and hit fascia.

Truck presumed to be ice vendor due to location

CHECK ONE: ACCOUNTING TO INVOICE  AGENT WILL INVOICE

AUTHORIZED BY: [Signature]

DATE 6/22/01

THIS FORM MUST BE ATTACHED TO ANY INVOICE CODED TO R&M BILLBACK (4105)

CAUSAUN