

IN THE UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

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

IN RE:

FURR'S SUPERMARKETS, INC.,  
a Delaware Corporation,

Debtor.

§  
§  
§  
§  
§

Case No. 11-01-10779-SA

**LAKEWAY SHOPPING CENTER'S OBJECTION TO DEBTOR'S  
NOTICE OF PROPOSED CURE AMOUNTS**

TO THE HONORABLE JAMES S. STARZINSKY, UNITED STATES BANKRUPTCY  
JUDGE:

*Lakeway Shopping Center ("Lakeway")*, a Lessor, Creditor and Party-in-Interest in the  
above Chapter 11 case, files its *Objection to Debtor's Notice of Proposed Cure Amounts (the  
"Objection")*, and in support thereof, would respectfully show the Court as follows:

**I. Factual & Procedural Background**

1. *Lakeway* is the Lessor under an unexpired lease for non-residential real property (the  
"*Lease*") for Furr's Store No. 916, located at 1900 N. Date, Truth or Consequences, New  
Mexico.
2. On Monday, August 6, *Lakeway* received the *Notice of Proposed Cure Amounts, Objection  
Deadline and Final Hearing* (the "*Notice*") from the Debtor.
3. The Debtor has proposed to assume and assign the *Lease* to S.C. Erica, Inc. ("*Erica*").
4. The Debtor proposes to pay the following as the "cure amounts" to *Lakeway* for the *Lease*  
sought to be assigned -

672

| Store No. | Prepetition Rent (prorated) | CAM      | Property Taxes (2000) | Total      |
|-----------|-----------------------------|----------|-----------------------|------------|
| 916       | \$4,490.25                  | \$399.56 | \$4,094.62            | \$8,984.43 |

## II. Relief Requested

5. *Lakeway* submits the proposed "cure amounts" are incorrect. The following additional amounts are necessary to cure the existing prepetition defaults and expenses incurred during or as a direct result of the Chapter 11 proceeding -

| Store No.     | August 2001 Rent | Penalties & Interest Due in Addition to 2000 Property Taxes (through 8/31/01) | Variance   |
|---------------|------------------|---|------------|
| 916           | N/A              | \$1,156.16 (\$5,250.78)   | \$1,156.16 |
| <b>Total:</b> |                  |   |            |

6. Moreover, under §365(b)(1)(B) and the provisions of the applicable *Lease*, the Debtor must pay the reasonable attorneys fees and expenses which have been incurred by *Lakeway*, and may continue to be incurred by *Lakeway* in this proceeding. See *In re Shangri-La, Incorporated*, 167 F. 3d 843 (4<sup>th</sup> Cir. 1999); *In re Hillsborough Holdings Corporation*, 126 B.R. 895, 898 (Bankr. M.D. Fla. 1991); *In re Bullock*, 17 B.R. 438, 439 (9<sup>th</sup> Cir. BAP 1982) (lessor's attorneys fees are part of pecuniary loss that must be cured when underlying lease provides for recovery of attorneys fees).
7. As of August 8, 2001, the amount of \$1,788.25 in attorneys fees, and \$208.57<sup>1</sup> in

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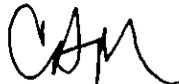
<sup>1</sup> This number is not the total expenses incurred. Because of the short objection window, not all expenses have been inputted. *Lakeway* will provide a total figure as well as supporting evidence at trial on this matter.

attorneys fees and expenses were reasonable and necessary for this type of proceeding. *Lakeway* is further entitled to reimbursement of all attorneys fees to be incurred in the future in connection with the *Lease* through closing on the assignment to *Supermarket Properties* or any other third-party purchaser.

WHEREFORE, PREMISES CONSIDERED, *Lakeway Shopping Center* respectfully prays that the Court enter an order determining the correct cure amount for assignment of the *Lakeway Lease*, plus all attorneys fees, costs, and expenses incurred subsequent to August 10, 2001.

Respectfully submitted,

**KRAFSUR GORDON MOTT P.C.**  
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By:   
CARLOS A. MIRANDA  
Texas State Bar No. 14199582

**CERTIFICATE OF SERVICE**

This is to certify that on the 10<sup>th</sup> day of August, 2001, a true and correct copy of the foregoing *Objection* was mailed via regular U.S. Mail and facsimile to the parties listed below.



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CARLOS A. MIRANDA

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