

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

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In re : 01- 11- _____ ()
FURR'S SUPERMARKETS, INC., : Chapter 11
Debtor. :

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ORDER UNDER 11 U.S.C. §§ 105(a), 503(b) AND 546(c) CONFIRMING
GRANT OF ADMINISTRATIVE EXPENSE STATUS TO OBLIGATIONS
ARISING FROM POSTPETITION DELIVERY OF GOODS, CONFIRMING
ADMINISTRATIVE EXPENSE TREATMENT FOR RECLAMATION CLAIMS,
AND PROHIBITING THIRD PARTIES FROM INTERFERING WITH
DELIVERY OF GOODS

Upon the motion, dated February 7, 2001 (the "Motion"),¹ of the above-captioned debtor and debtor-in-possession (the "Debtor"), for an order under 11 U.S.C. §§ 105(a), 503(b) and 546(c) confirming that the Debtor's undisputed obligations arising directly and indirectly from the shipment or delivery by suppliers, vendors and shippers (collectively, the "Vendors") of materials, supplies, goods, products and related items (collectively, the "Goods") accepted by the Debtor postpetition will have administrative expense priority status, confirming administrative expense treatment for certain holders of valid reclamation claims, and prohibiting third parties from interfer-

¹ Unless otherwise defined herein, capitalized terms used herein shall have the same meanings as in the Motion.

ing with the delivery of goods to the Debtor; and upon the Declaration of Steven L. Mortensen in Support of Chapter 11 Petition and First-Day Orders, dated February 5, 2001; and the Court having determined that the relief requested in the Motion is in the best interests of the Debtor, its estate, its creditors and other parties in interest; and it appearing that notice of the Motion, as described therein, was adequate and proper under the circumstances, and that no other or further notice is necessary; and upon the record herein; and after due deliberation thereon; and good and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is GRANTED.
2. The Vendors shall have administrative expense claims with priority under section 503(b) of the Bankruptcy Code for those undisputed obligations arising from Outstanding Orders for Goods received and accepted by the Debtor after the Petition Date.
3. Vendors shall have administrative expense claims for Goods received and accepted by the Debtor, if and to the extent that the Vendor makes a valid, written reclamation claim for its Goods in accordance with section 546(c) of the Bankruptcy Code or section 2-702 of the Uniform Commercial Code, but only to the extent that the Vendor proves the validity of its demand and the amount of its claim.

4. If a Vendor continues to provide the Debtor with Goods on Customary Terms (i.e., trade and credit terms that were in effect between the parties before the Petition Date, or other terms acceptable to the Debtor) during the pendency of the case, the Debtor shall be deemed to have waived the following defenses to the Vendor's reclamation claim: (a) the Vendor's failure to take any or all possible "self-help" measures with respect to such Goods and (b) the Vendor's failure to institute an adversary proceeding against the Debtor seeking to enjoin it from using or selling its Goods or any other similar relief.

5. Under sections 105 and 362 of the Bankruptcy Code, Vendors and all other third parties are prohibited from reclaiming or interfering in any way with the postpetition shipment or delivery of Goods to the Debtor without first obtaining relief from this Order.

Dated: _____


United States Bankruptcy Judge