

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.,

Case No. 7-01-10779-SA  
Chapter 7

Debtor.

**ORDER APPROVING EMPLOYMENT OF JACOBVITZ, THUMA & WALKER,  
P.C. AS COUNSEL FOR THE CHAPTER 7 TRUSTEE**

This matter came before the Court upon the interim Chapter 7 Trustee's (the "Trustee's") Motion to Employ Jacobvitz, Thuma & Walker, P.C. as Counsel for the Trustee, filed December 19, 2001 (the "Motion"). By the Motion, the Trustee seeks (i) Bankruptcy Court approval of its employment of Jacobvitz, Thuma & Walker, P.C. ("JTW"), pursuant to Bankruptcy Code §327(a), as counsel for the Trustee in this case, to represent the Trustee in such matters as the Trustee may request of JTW and JTW may agree to perform, and (ii) authority to make interim payment of compensation to JTW.

The Court FINDS:

- A. On December 19, 2001 JTW filed its attorney disclosure pursuant to Bankruptcy Rules 2014 and 2016 (the "Disclosure");
- B. On December 21, 2001, JTW gave notice of the Motion to all persons on the limited mailing matrix in this Chapter 7 case (the "Notice");
- C. The Notice was sufficient and appropriate in the particular circumstances;
- D. Pursuant to a Court order shortening the objection deadline, the Notice specified a deadline of fifteen days, plus three days based on service of the Notice by mail, for a total of eighteen days, in which to file objections to the Motion;

E. The Disclosure states, among other things:

JTW represented Debtor as debtor in possession in the chapter 11 case (the "DIP"), and has an unpaid claim in excess of \$125,000 for attorneys fees incurred while representing the DIP. In addition, JTW asserts it is entitled to payment of such unpaid fees from a professional carve-out set forth in DIP financing orders, including a special carve out for JTW set forth in the first post-closing financing order. Further, Metropolitan Life Insurance Company ("Met Life") has agreed subject to Court approval to pay JTW out of Met Life's collateral, up to \$15,000, for services JTW rendered to the Debtor between December 1, 2001 and December 15, 2001. Such \$15,000 is on deposit in JTW's attorney trust account. As of the date of this Disclosure, a motion to approve such arrangement is on notice to creditors. Approval of JTW's fees incurred in the chapter 11 case after October 30, 2001 has not been sought or obtained.

F. On December 21, 2001 JTW filed a motion to withdraw as counsel for the Debtor. No objections to the motion were filed. An order was entered on January 9, 2002, authorizing such withdrawal;

G. The deadline to object to the Motion expired on January 8, 2002, with no objections to the Motion having been filed;

H. JTW satisfies the requirements set forth in Section 327(a) of the Bankruptcy Code for the Chapter 7 Trustee's retention of JTW;

I. No further notice of the Motion or of this order is necessary in the particular circumstances, prior to entry of this order;

J. JTW's employment as counsel for the Trustee, as set forth below, should be approved; and

K. Entry of this order is appropriate.

IT IS, THEREFORE, ORDERED:

1. The Trustee's employment of JTW as her counsel, pursuant to Bankruptcy Code §327(a), to represent the Trustee in such matters as the Trustee may

request of JTW and JTW may agree to perform, is hereby approved effective as of December 19, 2002.

2. JTW's billing rates will be \$190 per hour for Robert H. Jacobvitz and \$170 per hour for David T. Thuma and Thomas D. Walker. Any other attorneys who may be employed by JTW will be billed at their regular hourly rates. Legal assistants will be charged at \$50.00 per hour. Legal work performed on a contract basis for JTW will be charged at \$125.00 per hour.

3. The Trustee is authorized to pay JTW, upon receipt of JTW's billing statements and prior to the Court's determination of the allowability of JTW's compensation, up to and including 75% of fees, and up and including 100% of reimbursable costs and applicable gross receipts tax on fees and costs that are paid. All fees, costs, and gross receipts tax paid shall be subject to ultimate approval of the Bankruptcy Court under Bankruptcy Code §§328, 330 and 331.

4. JTW shall file fee applications approximately every 180 days.

  
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THE HONORABLE JAMES S. STARZYNSKI  
UNITED STATES BANKRUPTCY JUDGE

Submitted by:

JACOBVITZ, THUMA & WALKER,  
a Professional Corporation

By: 

Robert H. Jacobvitz  
David T. Thuma  
500 Marquette N.W., Suite 650  
Albuquerque, N.M. 87102  
(505) 766-9272

Attorneys for the Chapter 7 Trustee

I hereby certify that a true and correct copy of the foregoing was either electronically transmitted, faxed, delivered or mailed to the listed counsel and parties on:

JAN 22 2007

Mary B. Anderson