

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.,

Case No. 11-01-10779-SA
Chapter 11

Debtor.

**AGREED ORDER RESOLVING GENERAL ELECTRIC COMPANY, GE LIGHTING'S
OBJECTION TO DEBTOR'S MOTION FOR INTERIM AND FINAL ORDER (I)
AUTHORIZING DEBTOR TO INCUR POST-PETITION SECURED INDEBTEDNESS,
(II) GRANTING SECURITY INTERESTS, (III) MODIFYING AUTOMATIC STAY,
AND (IV) GRANTING OTHER RELIEF**

This matter came before the Court on the debtor Furr's Supermarkets, Inc.'s (the "Debtor") Motion For Interim and Final Order (I) Authorizing Debtor to Incur Post-Petition Secured Indebtedness, (II) Granting Security Interests, (III) Modifying Automatic Stay, and (IV) Granting Other Relief (the "DIP Motion") and the objection thereto filed on February 14, 2001 (the "Objection") by the General Electric Company, GE Lighting ("GE Lighting"), and the Court, being duly advised in the premises and noting that the Debtor and GE Lighting have agreed to the entry of this order (the "Agreed Order"), as shown by the signatures set forth below, FINDS:

A. On February 8, 2001 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330 (as amended, the "Bankruptcy Code") in this Court. The Debtor continues to operate its business and manage its properties as debtor-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

B. Prior to the Petition Date, the Debtor entered into a Retailer Agreement and certain attachments thereto including, without limitation, a Consignment Agreement (collectively the "Agreement") with GE Lighting. Pursuant to the Agreement, the Debtor agreed to obtain from GE Lighting and GE Lighting agreed to supply to the Debtor, on both a sale and consignment basis, certain lamps and light bulbs (the "GE Merchandise").

C. The GE Merchandise in the Debtor's possession on the Petition Date was subject to GE Lighting's valid, perfected, first-in-time purchase money security interest therein.

D. GE Lighting and the Debtor have agreed:

(i) The Debtor and GE Lighting believe that the value (as measured by GE Lighting's invoice price) of the GE Merchandise in the possession of the Debtor as of the Petition Date was \$224,149.32;

(ii) The Debtor will purchase the GE Merchandise on hand on the Petition Date for the sum of \$224,149.32 in cash, payable within 7 days from the date hereof by wire transfer;

(iii) Upon such payment, the GE Merchandise in the Debtor's _____

ownership, security, or other interest only to the extent, if any, the value thereof (on a cost basis) exceeds \$224,149.32;

(iv) The purchase shall be without prejudice to GE Lighting's or the Debtor's right to conduct further analyses or audits (at their own expense) relative to (a) the value of the GE Merchandise that was in the Debtor's possession on the Petition Date, and to assert that the actual value of such GE Merchandise was greater than or less than \$224,149.32 and (b) the amount of proceeds the Debtor received from the sale of the GE Merchandise. The Debtor will cooperate with GE Lighting in such analyses or audits, which analyses or audits shall be conducted in a reasonably prompt manner and shall not materially disrupt the Debtor's business operations;

(v) Within 15 days of the conclusion of the audits, the Debtor and GE Lighting will mutually determine the amount of GE Merchandise in the Debtor's possession as of the Petition Date and adjust the purchase price accordingly. If the Debtor and GE Lighting cannot agree as to such amount, the parties will promptly submit the issue for the Court's determination. Payment of any amounts and adjustments will be accomplished within a reasonable period thereafter;

(vi) Consistent with the requirements of section 363(c)(4) of the Bankruptcy Code, the Debtor shall, within forty days of the entry hereof, provide GE Lighting with an accounting reflecting all proceeds received by the Debtor from the Debtor's postpetition sale of the GE Merchandise;

(vii) The parties reserve all of their rights with respect to the amount of GE Lighting's secured claim in certain proceeds from the Debtor's sale of GE Merchandise prior and subsequent to the Petition Date; and

(viii) The parties reserve their respective rights as to whether the Agreement is an executory contract and, if so, whether the Agreement is assumable.

proper under the particular circumstances.

F. The Court shall retain jurisdiction to determining all disputes arising under or in connection with this Agreed Order.

IT IS THEREFORE ORDERED:

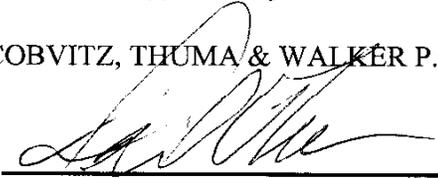
1. The Objection is hereby withdrawn.
2. The agreement between GE Lighting and the Debtor set forth in this Agreed Order is approved in all respects.
3. The Debtor may use funds borrowed pursuant to the Debtor-in-Possession financing that is the subject of the DIP Motion to make the payments and any adjustments thereto to GE Lighting as set forth above.
4. This Agreed Order contains the entire agreement between the parties with respect to the subject matter herein and may not be changed, amended, modified or altered except by written agreement signed by each party and approved by the Court or as otherwise ordered by the Court. No representations have been made or relied upon by the parties, except as set forth herein.



THE HONORABLE BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Submitted and approved by:

JACOBVITZ, THUMA & WALKER P.C.

By: 

Robert H. Jacobvitz
David T. Thuma
500 Marquette N.W., Suite 650
Albuquerque, NM 87102
(505) 766-9272
(505) 722-9287 (fax)

-and-

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

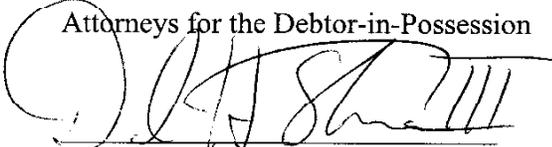
Jay M. Goffman and Alan J. Carr
Four Times Square
New York, New York 10036-6522
(212) 735-3000

-and-

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

Richard Levin (CA State Bar No. 66578)
Peter W. Clapp (CA State Bar No. 104307)
Amy S. Park (CA State Bar No. 208204)
300 South Grand Avenue, Suite 3400
Los Angeles, California 90071-3144
(213) 687-5000

Attorneys for the Debtor-in-Possession



David H. Thomas, III
Dave Thomas & Associates, P.C.
3915 Carlisle Blvd, NE
Albuquerque, NM 87107
(505) 883-8787

-and-

BENESCH, FRIEDLANDER, COPLAN & ARONOFF, LLP
David R. Mayo
David M. Neumann
2300 BP Tower
200 Public Square
Cleveland, OH 44114-2378
(216) 363-4500

Attorney for General Electric Company, GE Lighting

MODRALL, SPERLING, ROEHL, HARRIS & SISK

By: telephonically approved 3/15/01
Paul M. Fish
P.O. Box 2168
Albuquerque, New Mexico 87103
(505) 848-1800
Attorney for Heller Financial, Inc., as agent