

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO

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

In re:

FURR'S SUPERMARKETS, INC.,)
a Delaware corporation) No. 11-01-10779-SA
Tax I.D. No. 75-2364418 (Federal;)
02-159595-0 (New Mexico))
Debtor.)

**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 THE AUTOMATIC STAY, ETC.**

Premier Distributing Company, Inc. ("Premier"), a creditor of Furr's Supermarkets, Inc., debtor-in-possession (the "Debtor"), for its objection to Debtor's Motion for Interim and Final Order (1) authorizing Debtor to incur post-petition secured indebtedness, (2) granting security interests, (3) modifying the automatic stay, and scheduling a final hearing (the "Motion") respectfully states as follows:

1. On February 8, 2001, the Debtor filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code.
2. Premier was not provided notice from the Debtor of the filing and was not provided a copy of the Motion and notice of the hearing in a manner which could have reasonably enabled Premier to appear at the hearing and contest entry of the order.
3. Premier opposes entry of the final order on use of cash collateral, obtaining post-petition secured financing and the grant of a super-priority lien on all of Debtor's assets (the "Final Order").

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4. Premier is a wholesale provider of alcoholic beverages to Debtor. Debtor's right to lawfully resell alcoholic beverages at retail is dependant upon Debtor's compliance with New Mexico laws regarding liquor sales, particularly including the Liquor Control Act, which includes those sections cited in NMSA 2000 60-3A-01. Pursuant to the Liquor Control Act, Debtor must maintain licenses permitting it to engage in the retail sale of alcoholic beverages (the "Liquor Licenses") , and must comply with all regulatory and statutory requirements in connection with the maintenance of the Liquor Licenses.

5. Pursuant to NMSA 2000 60-6B-3 (1978) Premier is entitled to and has a properly perfected first lien on the Liquor Licenses because it is a creditor of the licensee, which is the Debtor. The Debtor is indebted to Premier for approximately \$812,598 dollars arising from delivery by Premier of alcoholic beverages which Debtor subsequently sold at retail without paying Premier. A list of the Liquor Licenses is attached as Exhibit A. Premier first sold alcoholic beverages to Debtor in 1985.

6. Moreover, Premier has filed a notice under 11 U.S. C. 546(c) in this case. Although Debtor has requested that trade creditors be granted an administrative expense priority, and has received an order from this Court authorizing such a priority, the priority granted to the collective group of Lenders identified in the Interim Order for whose benefit the Final Order is sought will effectively destroy any benefit from the administrative priority granted to Premier.

7. The proposed Final Order violates Premiers rights and may not be entered over Premier's objections for, in part, the following reasons:

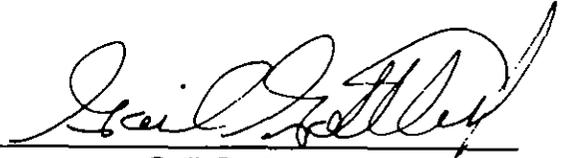
- A. Debtor has declined to stipulate that Premier is entitled to the benefits of paragraph 6a set out for the "Prior Claims" as defined therein. Even if Premier's claim is recognized as a Prior Claim, Premier's rights may not be circumscribed by the limitations on Prior Claims set forth in the proposed Final Order.
- B. Even in the event that Premier does not have a claim qualifying as a Prior Claim, Premier's rights under the Liquor Control Act, and its claim to a lien on the equity in each license, may not be abrogated by the Final Order.
- C. The proposed Final Order severely impairs the rights of trade creditors who delivered product to the Debtor immediately prior to the filing of the Chapter 11 petition, and who are entitled to the protections of 11 U.S.C. 546(c) and NMSA 2000 § 55-2-702, .
- D. The proposed Final Order requires the Debtor to give up substantial protections granted to it under the Bankruptcy Code, without any disclosure of the merit of and potential benefit of such claims. While the Debtor's executive staff would no doubt prefer to see the Debtor receive the DIP Financing so the Debtor can continue to operate, it may be that the unsecured creditors of the Debtor would be better served by a liquidation of the Debtor's assets and avoidance of the liens of the secured creditors. Without some analysis and disclosure of the merit or lack thereof of such claims, the creditors cannot make a meaningful

decision regarding the benefit or disadvantage of waiving the Debtor's rights to challenge the Senior Liens.

- E. The provisions of paragraph 10 of the proposed Final Order apparently provide that all cash in certain accounts of the Debtor shall be deemed proceeds from Pre-Petition Senior Lien Collateral. Because a number of checks tendered by Debtor in payment for pre-petition delivery of product have been returned postpetition, some being returned substantially after the date of deposit, some additional information on and analysis of this issue is warranted prior to allowance of this additional lien.
- F. Other reasons may become apparent, particularly once Debtor has provided Premier with an opportunity to review the status of perfection of the Senior Liens, and the Debtor's schedules and statement of affairs.

Wherefore Premier requests that the proposed Final Order not be entered unless Premier's right to a first lien on the Liquor Licenses under NMSA 2000 60-6B-3 is expressly protected, Premier's rights under NMSA 2000 55-2-702 are protected through a "carve-out" similar to that extended to other administrative priority creditors such as counsel for the Debtor, and a fuller and more complete disclosure of the effect of the remaining concessions and transfers proposed by the Debtor is provided, so that Premier can evaluate the effect that allowing the concessions and transfers will have on the rights of Premier, and on the funds which would likely become available to creditors such as Premier.

SUTIN, THAYER & BROWNE
A Professional Corporation

By 

Gail Gottlieb

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We hereby certify under penalty of perjury
that we have delivered a copy of the
foregoing objection by Federal Express
to the following on this 23rd day of February, 2001:

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and by hand delivery on February 26, 2001
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SUTIN, THAYER & BROWNE
A Professional Corporation

By 

Premier Distributing Co.
 Furr's Store Analysis

Store #	Location	NM Liq Lic#
874	13201 Lomas NE, Albuquerque, NM	973
812	7800 Enchanted Hills, Rio Rancho, NM	4042
868	6100 Central NE, Albuquerque, NM	617
878	2280-B Wyoming NE, Albuquerque, NM	4063
875	5800 Eubank NE, Albuquerque, NM	4067
877	2910 Juan Tabo NE, Albuquerque, NM	231
876	4016 Louisiana NE, Albuquerque, NM	884
866	1720 Bridge SW, Albuquerque, NM	4051
862	701 E Main, Los Lunas, NM	4029
801	700 N Main, Las Cruces, NM	254
811	1700 E Farmington, Farmington, NM	4047
860	4001 E Main, Farmington, NM	4069
886	5815 Wyoming NE, Albuquerque, NM	221
882	3301 Coors Rd NW, Albuquerque, NM	1306
884	111 Coors Rd NW, Albuquerque, NM	1385
881	3388 Southern Blvd. Rio Rancho, NM	4064
883	4201-A Central NW, Albuquerque, NM	4023
880	108 Juan Tabo NE, Albuquerque, NM	818
879	3701 Constitution NE, Albuquerque, NM	774
885	4701 4th NW, Albuquerque, NM	1309
891	2010 Plaza del Sur, Santa Fe, NM	4046
889	1700 St. Michael's Dr, Santa Fe, NM	482
896	1100 Paseo del Pueblo, Taso, NM	696
897	535 Central Ave, Los Alamos, NM	991
894	206 Mills Ave, Las Vegas, NM	461
893	Big Rock Shopping Ctr, Espanola, NM	939
871	8100 Ventura NE, Albuquerque, NM	187
899	901 California, Socorro, NM	275
898	102 Caldwell, Belen, NM	405
916	1500 N Date St, T or C, NM	881
914	414 E Pine St, Deming, NM	71
903	810 E 21st, Clovis, NM	996
901	Tucumcari Blvd, Tucumcari, NM	779
912	1220 N Hudson St, Silver City, NM	34

