

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

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U.S. BANKRUPTCY COURT  
ALBUQUERQUE, NM

In re:

FURR'S SUPERMARKETS, INC.,

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

Debtor.

**DEBTOR'S RESPONSE TO MOTION OF PUEBLO OF SANTA CLARA TO  
COMPEL DEBTOR TO PAY POST-PETITION PERCENTAGE RENT UNDER  
UNEXPIRED LEASE OF NONRESIDENTIAL REAL PROPERTY**

Furr's Supermarkets, Inc., debtor in possession ("Furr's"), files this response to the Motion of Pueblo of Santa Clara to Compel Debtor to Pay Post-Petition Percentage Rent Under Unexpired Lease of Nonresidential Real Property (the "Motion") and states:

1. The percentage rent movant seeks to collect is a pre-petition obligation, not a post-petition administrative claim. The percentage rent accrued in 2000. Although the rent was payable post-petition, it is a pre-petition obligation. The Motion therefore should be denied.

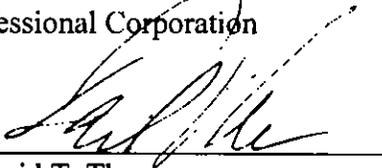
2. Furr's objects to the Motion to the extent it asks the Court to order Furr's to pay any rent due, as Furr's has no money with which to pay any such rent.

3. Furr's has filed a motion to assume the lease at issue and assign it to Safeway, Inc. If the Motion is granted, the year 2000 percentage rent would be paid as part of the cure of the lease arrearages, all of which would be paid by Safeway.

WHEREFORE, Furr's asks that the Motion be denied, and for all other just and proper relief.

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JACOBVITZ THUMA & WALKER  
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By: 

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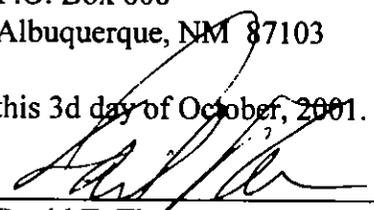
Attorneys for Furr's Supermarkets, Inc.

The undersigned hereby certifies that a  
copy of the foregoing was mailed to:

Richard W. Hughes  
Rothstein, Donatelli  
P.O. Box 8180  
Santa Fe, New Mexico 87504-8180

United States Trustee  
P.O. Box 608  
Albuquerque, NM 87103

this 3d day of October, 2001.

  
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David T. Thuma