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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO

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

In re

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

FURR'S SUPERMARKETS, INC.,

Debtor.

**SUPPLEMENTAL DECLARATION OF BRADLEY I. DIETZ  
IN SUPPORT OF DEBTOR'S APPLICATION FOR ORDER AUTHORIZING  
EMPLOYMENT AND RETENTION OF PETER J.  
SOLOMON COMPANY LIMITED AS ITS INVESTMENT BANK**

Bradley I. Dietz states that the following is true to the best of his  
knowledge, information and belief:

1. I am a managing director with the firm Peter J. Solomon  
Company Limited ("PJSC") with offices at 767 Fifth Avenue, 26th Floor, New York,  
New York 10153.

2. I submit this Declaration to supplement the Declaration of  
Peter J. Solomon, dated March 5, 2001 (the "Initial Declaration"), in support of the  
Debtor's Application to retain PJSC as investment bankers in this chapter 11 case,  
and provide certain information in response to the various objections to the employ-  
ment of PJSC.

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3. Except as otherwise indicated, I have personal knowledge of the matters set forth herein and, if called as a witness, would testify competently thereto. Certain of the disclosures herein relate to matters within the knowledge of other professionals at PJSC and are based on information provided by them.

PJSC's Connections with Parties-in-Interest

4. Metropolitan Life Insurance Company. As noted in the Initial Declaration, PJSC represented Metropolitan Life Insurance Company ("MetLife") in providing financial advisory services in connection with the sale of all or a part of VirtualFinances.com, a wholly-owned subsidiary of GenAmerica Financial Corporation, which, in turn, is a wholly-owned subsidiary of MetLife. This engagement is no longer active. At present, PJSC has no active relationship with MetLife.

5. Fleet Capital Corporation. As noted in the Initial Declaration, Peter J. Solomon serves as a member of the New York Administrative Committee of Fleet Bank, N.A. Fleet Capital Corporation, a secured creditor in the present case, is a subsidiary of Fleet Bank, N.A (collectively, "Fleet"). This committee meets three or four times a year to discuss general economic and business conditions. Peter J. Solomon receives \$750 for each meeting he attends. This position is ceremonial, and Peter J. Solomon has no decision-making authority with Fleet.

6. The Finova Group. Notwithstanding the United States Trustee's assertions to the contrary, PJSC is not employed in The Finova Group's

("Finova") pending chapter 11 case. I was previously involved in efforts to restructure Finova, prior to its bankruptcy filing, while with my previous employer, a creditor of Finova.

7. Connections with other parties. As an investment banking firm headquartered in New York, New York, PJSC has had, and, in the future, likely will have, interaction with most, if not all, of the large financial institutions in this case. To the best of my knowledge and belief, however, PJSC is not currently representing any of the Debtor's secured lenders. In some instances PJSC has represented or may represent other creditors and parties-in-interest in unrelated chapter 11 or transactional matters. Many of these representations are confidential. *Nevertheless, I reiterate that PJSC does not represent any party in any matter adverse or related to the Debtor or its chapter 11 case and will not undertake any such representation during the pendency of this case.*

8. Based on the foregoing, I believe that PJSC and the professionals in the firm are "disinterested persons," as that term is defined in 11 U.S.C. § 101(14), do not hold or represent an interest adverse to the Debtor's estate.

#### PJSC Engagement Letter

9. Scope of Services. As set forth in the Application, and the exhibits thereto, the Debtor seeks to retain PJSC to provide guidance regarding potential transactions that the Debtor may consider during its case, including

restructuring its existing indebtedness, obtaining new debt or equity financing, a business combination with one or more entities, or a sale of part or all of its assets. To the best of my knowledge and belief, no other professional retained by the Debtor will provide these services. To perform these services, PJSC may be required to prepare certain reports and gather various information. To the extent this information has been gathered by another professional, PJSC will utilize this professional's previous work in order to reduce costs to the estate. More generally, PJSC will make every effort to avoid duplication of effort in this matter.

10. Reasonableness of Compensation. PJSC's proposed compensation is lower than that charged by comparable investment bankers, in comparable cases. The table attached hereto as Exhibit A reports the monthly and restructuring fees charged by investment bankers in fifteen comparably-sized chapter 11 cases. In the present case, PJSC proposes to charge a monthly fee of \$150,000 and a restructuring fee of \$1.5 million, both of which are comparable to the fees set forth on the Exhibit. Further, PJSC has agreed to credit all monthly fees, after the second month, to the restructuring or transaction fees.

11. Transaction fees, on the other hand, typically differ from transaction to transaction, based upon the type of transaction that is contemplated. I believe that the transaction fee set forth in the engagement letter is reasonable and comparable to other fees charges for this type of work.

12. Nevertheless, in order to resolve the objections to PJSC's fees, and move forward with the reorganization of the Debtor, PJSC will voluntarily modify its proposed transaction fee. For any transaction, regardless of size, PJSC will accept a Transaction Fee equal to 1.5% of Aggregate Consideration (as defined in the engagement letter). The Transaction Fee remains subject to the overall minimum fee of \$1.5 million, as provided in the engagement letter.

13. The proposed transaction fee is comparable to those sought in recent supermarket chapter 11 cases. For example, *In re Big V Holding Corp.*, Case No. 00-4372 (PJW) (Bankr. D. Del.), involved a supermarket chain with 39 stores. The Debtor retained the Blackstone Group under a compensation structure that provided for a \$150,000 monthly fee, a \$2.75 million restructuring fee, and a transaction fee equal to the greater of \$2.75 million or 1% of the consideration paid. In the present case, PJCS seeks a \$150,000 monthly fee, a \$1.5 million restructuring fee, and a transaction fee based on a percentage of the sale price, as set forth above. These terms are comparable, and generally more favorable, than those approved in *Big V*, a grocery-store chain with almost half the number of stores.

14. Based upon the foregoing, and the exhibits to be submitted in support of the Application, I believe that the compensation set forth in the engagement letter is reasonable and appropriate for this case.

15. Indemnification. PJSC routinely requires both its bankruptcy

and non-bankruptcy clients to indemnify PJSC against the risk that litigation may result from a particular transaction. PJSC bases its fee structure on the presence of these indemnification provisions, and therefore does not factor the costs of potential litigation into the fees it charges its clients. To the best of my knowledge and belief, the indemnification terms in the present engagement letter are standard provisions, typical of those requested by PJSC and other nationally-known financial advisors in restructuring engagements of this sort. Several engagement letters from other PJSC engagements – all containing indemnification provisions – are attached hereto as Exhibit B.

16. Transaction and Reorganization Fees. The United States Trustee has expressed concern that the Transaction and Reorganization Fees (as defined in the engagement letter) would entitle PJSC to dual fees for the same work. Under the terms of the engagement letter, PJSC would receive both fees only if a portion of the Debtor were sold and a portion reorganized. For example, if PJSC assisted in the sale of half of the Debtor's stores, and the reorganization of the other half of the Debtor's stores, PJSC would be entitled for compensation for both transactions. Neither transaction, however, would involve the same work.

17. Modifications of Engagement Letter. Finally, in order to resolve certain objections to PJSC's retention, and to clarify certain ambiguities in

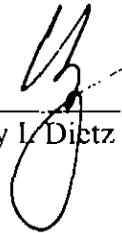
the engagement letter, PJSC will agree to the following changes or clarifications to the letter:

- (a) Section 3(b) The assets reorganized must have generated no less than 40% of the applicable revenues.
- (b) Section 3(c) Any financing fee will be subject to Bankruptcy Court approval.
- (c) Section 3(d) In addition to the changes to the calculation of the Transaction Fee, as noted above, the definition of Aggregate Consideration will be amended to remove the references to employment agreements and covenants not to compete. Further, the definition shall include only the actual amount of revolving debt assumed by a purchaser, and not the 12 month average as indicated in the engagement letter.
- (d) Section 7 The 18-month term will be reduced to 12 months.
- (e) Section 8(f) The phrase "or as required by the Bankruptcy Code; provided that the Company may share such advice with the Creditors Committee" will be added to the end of the section.
- (f) Section 8(i) The Bankruptcy Court shall have exclusive jurisdiction.

(g) Section 8(j) Counterclaims arising out of the engagement letter will be excluded from the scope of this section.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 3rd day of May, 2001, in New York, New York.

  
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Bradley L. Dietz