

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEW MEXICO

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In re:

U.S. BANKRUPTCY COURT
ALBUQUERQUE, NM

FURR'S SUPERMARKETS, INC.,

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

Debtor.

**THIRD MOTION TO SELL PERSONAL PROPERTY FREE AND CLEAR OF
LIENS AND INTERESTS, AND FOR ORDER GRANTING THE DEBTOR
ACCESS TO CERTAIN FORMER STORES**

Furr's Supermarkets, Inc., debtor in possession (the "Debtor"), pursuant to Bankruptcy Code §363(b)(1) and Bankruptcy Rule 9019, files this motion for an order allowing the Debtor to sell personal property free and clear of liens and interests, and for and order granting the Debtor access to certain former stores to conduct auctions, and in support hereof states:

1. On February 8, 2001, the Debtor commenced this bankruptcy case by filing a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. Pursuant to Bankruptcy Code §§1107(a) and 1108, Debtor has retained possession of its assets as debtor-in-possession.

2. By August 31, 2001, the Debtor closed its grocery stores and ceased operating as a retail grocery business.

1. Proposed Sale of Equipment in Store #911

3. The Debtor owns most of the personal property in former store #911, located in Roswell, New Mexico, such as shelves, refrigeration units, bakery equipment and fixtures, deli equipment, meat department equipment, etc. (together, the "Store 911 Equipment"). The Store 911 Equipment does not include any personal property that is leased to the Debtor by third parties.

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4. Equity Development Corporation, the landlord, has offered to purchase the Store 911 Equipment for \$10,000 in cash, and to waive all claims for pre- or post-petition rent, storage charges, or other claims of any kind whatsoever.

5. The Debtor wishes to accept the offer, and believes it is in the best interests of the estate.

II. Proposed Sale of Store 949 Equipment to Fenn Foods

6. The Debtor owns most of the personal property in former store #949, located in Carlsbad, New Mexico, such as shelves, refrigeration units, bakery equipment and fixtures, deli equipment, meat department equipment, etc. (together, the "Store 949 Equipment"). The Store 949 Equipment does not include any personal property that is leased to the Debtor by third parties.

7. Fenn Foods, Inc. has offered to purchase the Store 949 Equipment for \$30,000 in cash, and to incur all costs of removing the equipment from the store.

8. The Debtor wishes to accept the offer, and believes it is in the best interests of the estate.

9. To complete the sale, the Debtor needs a court order ordering the landlord to give the Debtor and/or Fenn Foods sufficient access to Store 949 to do so. To date, the landlord has refused to give the Debtor the needed access.

10. The Debtor should not be required to pay rent or storage charges as a condition to completing the sale.

III. Proposed Auction Sales of Equipment in Stores ##880, 883, 927, and 966

11. The Debtor would like to conduct auction sales of its personal property located at its former store no. 880 at Central and Juan Tabo in Albuquerque, New Mexico, store 883 at Central and Atrisco in Albuquerque, New Mexico, store no. 927 at 9348 Dyer in El Paso, Texas, and store no. 966 in Midland, Texas (together, the "Stores"). The Debtor owns most of the personal property in the Stores, such as shelves, refrigeration units, bakery equipment and fixtures, deli equipment, meat department

equipment, etc. (together, the "Store Equipment"). The Store Equipment does not include any personal property that is leased to the Debtor by third parties.

12. The Debtor has asked Walter Parker to conduct the auctions of the Store Equipment. Mr. Parker has agreed to conduct the auctions on the same terms and conditions as the auctions he has already conducted for the Debtor, namely, payment of a 20% commission and reimbursement of certain out-of-pocket expenses.

13. The Debtor would like to conduct the auctions in mid-November, 2001.

14. To conduct the auctions, the Debtor needs a court order ordering the landlords to give the Debtor and/or Walter Parker sufficient access to the Stores to do so. To date, the landlords have refused to give the Debtor the needed access.

15. The Debtor should not be required to pay rent or storage charges as a condition to conducting the auctions.

IV. Proposed Sale of Generator at Corporate Office

16. The Debtor owns a certain Onan 100 Kilowatt natural gas generator located at the corporate headquarters in Albuquerque, New Mexico (the "Generator").

17. The Debtor wishes to sell the Generator, either to the highest cash buyer offering more than \$10,000 or, if no such cash offers are made, then by conducting an internet auction of the Generator.

18. The Debtor has asked Walter Parker to conduct the internet auction of the Generator if the Debtor determines proceed on that basis. Mr. Parker has agreed to conduct the auction on the same terms and conditions as the auctions he has already conducted for the Debtor, namely, payment of a 20% commission and reimbursement of certain out-of-pocket expenses.

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V. Proposed Auction Sale of Remaining Headquarters Furniture, Computer Equipment, and Other Property

19. The Debtor owns certain furniture, equipment, computers, printers, and other personal property at its headquarters in Albuquerque, New Mexico (together, the "Remaining Headquarters Property").

20. The Debtor would like to conduct an auction sale of most of the Remaining Headquarters Property in late November or early December, 2001.

21. The Debtor has asked Walter Parker to conduct the auction of the Remaining Headquarters Property. Mr. Parker has agreed to conduct the auction on the same terms and conditions as the auctions he has already conducted for the Debtor, namely, payment of a 20% commission and reimbursement of certain out-of-pocket expenses.

V. Proposed Sales are in the Best Interests of Creditors

22. It is in the best interests of the Debtor and its creditors to approve the sales of personal property described above in accordance with the terms and conditions set forth herein.

23. The only parties that claim a lien or other interest in the personal property are the Debtor's pre- and post-petition secured lenders (the "Lenders").

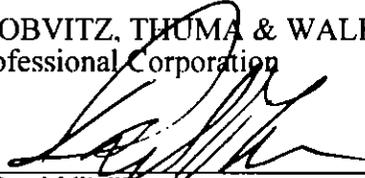
24. The personal property would be sold free and clear of liens and interests, with all liens and interests attaching to the sale proceeds.

25. The personal property would be transferred by the Debtor "as is and where is," with no representations or warranties made by the Debtor.

26. It is in the best interests of the Debtor and its creditors to approve the sales set forth above in accordance with the terms and conditions set forth above.

WHEREFORE, Furr's respectfully requests that this Court enter an order granting the relief requested herein, and for all other just and proper relief.

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