

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.
Tax I.D. No. 22-3137244

Case No. 11-01-10779 SA

Debtor.

**UNITED STATES TRUSTEE'S COMMENT ON
OFFICIAL UNSECURED CREDITORS' COMMITTEE'S
APPLICATION TO RETAIN PEPPER HAMILTON LLP**

The United States Trustee for the District of New Mexico hereby comments on the Official Unsecured Creditors' Committee's Application to Retain Pepper Hamilton, LLP, as follows:

1. The Affidavit of Stuart E. Hertzberg pursuant to Federal Rule of Bankruptcy Procedure 2014, at paragraph 6 discloses that Pepper Hamilton is currently representing Fleet Capital Corporation, a secured creditor in this case, on unrelated matters. Further, Pepper Hamilton is also representing Bank of America in unrelated matters.

2. It is the United States Trustee's understanding that Pepper Hamilton will not render services to the Unsecured Creditors' Committee (UCC) in connection with any issues relating to Fleet Capital Corporation or the Bank of America. It is further the U.S. Trustee's understanding that any such matters will be handled by other counsel retained by the UCC.

3. The Affidavit of Stuart E. Hertzberg, at paragraph 8, states that it is Pepper Hamilton's policy, inter alia, to charge "non-ordinary overhead expenses such as overtime for secretarial personnel and other staff."

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4. It is the U.S. Trustee's position that such expenses are not compensable pursuant to 11 U.S.C. §330. It is further the U.S. Trustee's understanding that Pepper Hamilton has agreed that it will not seek compensation for "non-ordinary overhead expenses" during its representation of the UCC in this matter.

5. In a Supplemental Application of Chairperson of the Official Unsecured Creditors' Committee filed herein on February 26, 2001, the UCC has suggested, at paragraph 8, a procedure for the payment of monthly billings submitted by Pepper Hamilton. The U.S. Trustee has no objection to the procedure set forth therein, except to the extent that it may foreclose any party in interest, including the Debtor, from filing objections to interim or final fee applications.

6. In order to adequately review professional fees pursuant to her statutory duties, the U.S. Trustee requests that Pepper Hamilton provide copies of monthly billing statements to the undersigned.

Respectfully submitted,

BRENDA MOODY WHINERY
United States Trustee

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The undersigned certifies that a true and accurate copy of the foregoing was mailed to the below listed counsel on this 21st day of March, 2001.

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