

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW MEXICO

In re:

FURR'S SUPERMARKETS, INC.
Tax I.D. No. 22-3137244

Case No. 11-01-10779 SA

Debtor.

**UNITED STATES TRUSTEE'S OBJECTION TO ENTRY OF FINAL ORDER
(1) AUTHORIZING DEBTOR TO INCUR POST-PETITION SECURED
INDEBTEDNESS, (2) GRANTING SECURITY INTEREST, (3) MODIFYING THE
AUTOMATIC STAY AND (4) GRANTING OTHER RELIEF**

The United States Trustee for the District of New Mexico hereby objects to the entry of a final order (1) Authorizing Debtor to Incur Post-petition Secured Indebtedness, (2) Granting Security Interest, (3) Modifying the Automatic Stay and (4) Granting Other Relief (Final Order).

As her reason therefore, the U.S. Trustee states:

1. The Interim Order preliminarily authorizing the Debtor to incur post-petition secured indebtedness (entered herein on February 9, 2001 at docket no. 32), at paragraph 9 provides that the collateral securing the indebtedness of the post-petition lenders shall not be subject to the provisions of 11 U.S.C. § 506 (c).

2. In the unlikely event that this matter is converted to a chapter 7 proceeding, it is entirely foreseeable that a chapter 7 trustee would incur costs and expenses in preserving property constituting collateral.

3. It is highly inequitable and violative of due process for a Final Order to waive a future chapter 7 trustee's rights under §506 (c) and that provision should be stricken.

4. The U.S. Trustee has been informed that negotiations are ongoing with respect to finalizing loan documentation, including the credit agreement and security agreements. As a

consequence, creditors and interested parties should be given a reasonable time in which to review and object to loan documents, once they have been completed.

Respectfully submitted,
BRENDA MOODY WHINERY
United States Trustee

Filed electronically 3/1/01
Ron E. Andazola
Assistant United States Trustee
Post Office Box 608
Albuquerque, NM 87103
(505) 248-6544

The undersigned certifies that a true and accurate copy of the foregoing was mailed and sent by telefacsimile to the below listed counsel this 1st day of March, 2001.

Filed electronically 3/1/01
Ron E. Andazola

Robert H. Jacobvitz, Esq.
Jacobvitz, Thuma, & Walker
500 Marquette NW Suite 650
Albuquerque, New Mexico 87102
(505) 766-9272

William F. Davis, Esq.
Davis & Pierce ,P.C.
201 Broadway SE
P.O. Box 6
Albuquerque, NM 87103
(505) 243-6129

Paul Fish, Esq.
Modrall, Sperling, Roehl, Harris & Sisk P.A.
500 Fourth Street, N.W. Suite 1000
Albuquerque, N.M. 87103-2168
(505) 848-1800

Jennie Deden Behles, Esq.
J.D. Behles & Associates
400 Gold Ave. S.W., Suite 400
Albuquerque, N.M. 87103-0849
(505) 243-9756