

**UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re:

JENNIFER CONVERTIBLES, INC.,<sup>1</sup>

Debtors.

Chapter 11

Case No. 10-13779 (ALG)

(Jointly Administered)

**ORDER (I) PROHIBITING UTILITIES FROM ALTERING OR DISCONTINUING SERVICES; (II) ESTABLISHING PROCEDURES FOR PROVIDING DEPOSITS TO REQUESTING UTILITIES; (III) DEEMING UTILITY COMPANIES TO HAVE ADEQUATE ASSURANCE OF PAYMENT; AND (IV) ESTABLISHING PROCEDURES FOR RESOLVING REQUESTS FOR ADDITIONAL ASSURANCE OF PAYMENT**

Upon the motion, dated July 29, 2010 (the “Motion”)<sup>2</sup> of Jennifer Convertibles, Inc. and its affiliated debtors, as debtors in possession (collectively, the “Debtors”), for an order determining adequate assurance of payment for future Utility Services, all as more fully set forth in the Motion; and upon consideration of the Declaration of Rami Abada in Support of the Debtors’ Chapter 11 Petitions and Request for First Day Relief; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the Standing Order M-61 Referring to Bankruptcy Judges for the Southern District of New York Any and All Proceedings Under Title 11, dated July 10, 1984 (Ward, Acting C.J.); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the parties listed therein;

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, if applicable, are: (i) Jennifer Convertibles, Inc. (4646); (ii) Jennifer Convertibles Boylston MA, Inc. (7904); (iii) Jennifer Chicago Ltd. (0505); (iv) Elegant Living Management, Ltd. (5049); (v) Hartsdale Convertibles, Inc. (1681); (vi) Jennifer Management III Corp. (3552); (vii) Jennifer Purchasing Corp. (7319); (viii) Jennifer Management II Corp. (9177); (ix) Jennifer Management V Ltd. (9876); (x) Jennifer Convertibles Natick, Inc. (2227); (xi) Nicole Convertibles, Inc. (5985); (xii) Washington Heights Convertibles, Inc. (0783).

<sup>2</sup> All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

and it appearing that no other or further notice need be provided; and the Court having held a hearing to consider the requested relief (the “Hearing”); and the appearances of all interested parties having been noted in the record of the Hearing; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is GRANTED to the extent set forth herein.
2. The Debtors shall provide a deposit equal to 50% of the estimated monthly cost of Utility Service, calculated as a historical average over the past twelve (12) months, to any Utility Provider who requests such a deposit (the “Adequate Assurance Deposit”) in writing to: (i) counsel to the Debtors, Olshan Grundman Frome Rosenzweig & Wolosky, Park Avenue Tower, 65 East 55<sup>th</sup> Street, New York NY 10022, Attn.: Michael S. Fox, Esq. and Jordanna L. Nadritch, Esq., and (ii) Jennifer Convertibles, Inc., 417 Crossways Park Drive, Woodbury, New York 11797, Attn: Philip Rameshwar, provided that such requesting Utility Provider does not already hold a deposit equal to or greater 50% of the estimated monthly cost of Utility Service, calculated as a historical average over the past twelve (12) months, and provided further that such Utility Provider is not currently paid in advance for its service.
3. Any Utility Provider that believes Additional Adequate Assurance is required must serve a request (an “Additional Assurance Request”) so that it is received within twenty (20) days from the date of entry of this Order (the “Request Deadline”) by: (i) counsel to the Debtors, Olshan Grundman Frome Rosenzweig & Wolosky, Park Avenue Tower, 65 East 55<sup>th</sup> Street, New York NY 10022, Attn.: Michael S. Fox, Esq. and Jordanna L. Nadritch, Esq., and (ii)

Jennifer Convertibles, Inc., 417 Crossways Park Drive, Woodbury, New York 11797, Attn: Philip Rameshwar.

4. Any Additional Assurance Request must: (i) be made in writing; (ii) set forth the location for which Utility Services are provided; (iii) include a summary of the Debtors' payment history relevant to each affected account(s), including any security deposits; and (iv) set forth why the Utility Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment.

5. Upon receipt of any Additional Assurance Request at the address set forth above, the Debtors shall have the greater of (i) 14 days from the receipt of such Additional Assurance Request or (ii) 30 days from the Petition Date (collectively, the "Resolution Period") to negotiate with such Utility Provider to resolve such Utility Provider's request for additional assurance of payment.

6. The Debtors may, in their discretion, resolve any Additional Assurance Request by mutual agreement with the Utility Provider and without further order of the Court, and may, in connection with any such agreement, in their discretion, provide a Utility Provider with Additional Adequate Assurance in the form of, but not limited to, cash deposits, prepayments or other forms of security, without further order of this Court, if the Debtors believe such Additional Adequate Assurance is reasonable.

7. If the Debtors determine that the Additional Assurance Request is not reasonable and are not able to reach an alternative resolution with the Utility Provider during the Resolution Period, the Debtors, during or immediately after the Resolution Period, will request a hearing before this Court to determine the adequacy of assurances of payment with respect to a particular

Utility Provider (the “Determination Hearing”) pursuant to section 366(c)(3) of the Bankruptcy Code.

8. During any Resolution Period and, if applicable, pending resolution of any Determination Hearing, the particular Utility Provider that has requested the Additional Adequate Assurance shall be restrained from discontinuing, altering or refusing service to the Debtors on account of unpaid charges for prepetition services or on account of any objections to the Proposed Adequate Assurance.

9. Any Utility Provider that does not request an Adequate Assurance Deposit and/or file an Additional Assurance Request by the Request Deadline shall be deemed to have received adequate assurance of payment that is satisfactory to such Utility Provider within the meaning of section 366 of the Bankruptcy Code; provided, however, that any Utility Provider may seek additional adequate assurance during the course of the Debtors’ chapter 11 cases for cause shown and on notice to the Debtors, and the Creditors Committee.

10. Absent any further order of this Court, the Utility Providers are prohibited from altering, refusing or discontinuing service to, or discriminating against, the Debtors on account of unpaid prepetition invoices or due to the commencement of these cases, or requiring the Debtors to pay a deposit or other security in connection with the provision of postpetition Utility Services, other than in accordance with the procedures contained herein.

11. The Debtors are authorized, in their sole discretion, to amend Exhibit A to the Motion to add or delete any Utility Provider, and this Order shall apply to any such Utility Provider that is subsequently added to Exhibit A to the Motion.

12. The Debtors’ service of the Motion upon a company or a Utility Provider’s inclusion on the Utility Provider List shall not constitute an admission or concession that any

such entity is a utility within the meaning of section 366 of the Bankruptcy Code, and the Debtors reserve all rights and defenses with respect thereto.

13. The Debtors are authorized to pay all undisputed invoices in respect of postpetition Utility Services rendered by the Utility Providers to the Debtors on a timely basis consistent with past practice.

14. The Debtors are authorized and empowered to take all other actions necessary to implement the relief granted in this Order.

15. Nothing in this order or the Motion shall be deemed to constitute the assumption of any agreement pursuant to section 365 of the Bankruptcy Code.

16. This Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: August \_\_, 2010  
New York, New York

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UNITED STATES BANKRUPTCY JUDGE