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**Hearing Date: August 31, 2010 at 11:00 a.m.
Objection Deadline: August 24, 2010 at 5:00 p.m.**

Proposed Counsel to the Debtors and Debtors in Possession

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

In re:

JENNIFER CONVERTIBLES, INC., *et al.*,¹
Debtors.

Chapter 11

Case No. 10-13779 (ALG)

(Jointly Administered)

**MOTION OF THE DEBTORS PURSUANT TO SECTIONS 105, 365(a), AND 554(a) OF
THE BANKRUPTCY CODE TO ESTABLISH PROCEDURES FOR THE REJECTION
OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES OF NONRESIDENTIAL
REAL PROPERTY AND ABANDONMENT OF RELATED PERSONAL PROPERTY**

Jennifer Convertibles, Inc. (“Jennifer Convertibles”) and its affiliated debtors, as debtors in possession (together, the “Debtors”), hereby move this Court (the “Motion”) for entry of an order pursuant to sections 105, 365(a), and 554(a) of the bankruptcy code to establish procedures for the rejection of executory contracts and unexpired leases of nonresidential real property and abandonment of related personal property. In support of this Motion, the Debtors respectfully state as follows:

¹ 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).

Background

1. On July 18, 2010 (the “Petition Date”), each of the Debtors commenced with the Bankruptcy Court a voluntary case pursuant to chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. An Official Committee of Unsecured Creditors was appointed in these chapter 11 cases on July 23, 2010.

2. Jennifer Convertibles, Inc. was organized as a Delaware corporation in 1986, and is currently the owner of (i) the largest group of sofabed specialty retail stores and leather specialty retail stores in the United States, with stores located throughout the Eastern seaboard, Midwest, West Coast and Southwest, and (ii) seven big box, full-line furniture stores operated under the Ashley Furniture HomeStore brand (the “Ashley Stores”) under a license from Ashley Furniture Industries, Inc.

3. As of the Petition Date, the Debtors’ stores included 130 stores operated by the Jennifer segment. During fiscal 2007, the Debtors opened their first Ashley Store. As of the Petition Date, the Debtors operate seven Ashley Stores.

4. As of the Petition Date, the Debtors employed 497 people. There are 336 employees in the Jennifer segment, 114 employees in the Ashley segment and 47 corporate employees. None of the employees are represented by a collective bargaining unit.

5. On July 20, 2010, the Debtors filed a motion to approve a sale process (the “Sale Motion”). Through this Motion, the Debtors sought the court’s permission to sell inventory in 32 of its stores to a liquidating agent. Attached as Exhibit A to the Motion was a proposed agency agreement (the “Agency Agreement”) entered into by the Debtors and Great American Financial Services LLC (“GAFS”). An amended Agency Agreement was filed on July 22, 2010.

The Debtors held an auction on July 28, 2010, and received no bids for their inventory, besides that of GAFS.

6. On July 29, 2010 the court granted the relief requested in the Sale Motion, and approved the sale to GAFS (the "Sale Order").

7. Pursuant to section 6.2 of the Agency Agreement, GAFS is to provide the Debtors with not less than seven (7) days' advance written notice of its intention to vacate any of the store locations.

8. The factual background relating to the Debtors' commencement of these chapter 11 cases is set forth in additional detail in the Declaration of Rami Abada in Support of First Day Motions (the "Abada Declaration") filed on July 19, 2010 and incorporated herein by reference.

Jurisdiction

9. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

10. The statutory predicates for the relief requested herein are sections 105(a), 365(a) and 554 of title 11 of the United States Code (the "Bankruptcy Code").

Relief Requested

11. The Debtors are a party to approximately 130 retail leases and other leases of nonresidential real property (the "Leases"). The Debtors determined that it was in their best interests to exit certain territories and conduct store closing sales at certain store locations (the "Closing Store Locations"), and entered in the Agency Agreement with GAFS in order to conduct such store closing sales. Under the terms of the Agency Agreement, GAFS will conduct the store closing sales at these Closing Store Locations, after which the Debtors will seek to reject the underlying Closing Store Location leases. In addition, certain of the Debtors' stores

may no longer be necessary to the Debtors' ongoing business operations and may present a burdensome liability. Accordingly, the Debtors seek authority to establish procedures to reject certain Leases, including, but not limited to, store locations that have been vacated by GAFS, notwithstanding contrary provisions in any of the affected Leases.

12. As to any Lease not rejected, the Debtors further reserve the right, subject to Court approval, to assume and/or assume and assign some or all of the Leases on terms advantageous to the Debtors' estates. The Debtors also reserve all rights and defenses with respect to any claim for damages arising as a result of a lease rejection including, but not limited to, the right to assert any offset, counterclaim, or deduction.

The Lease Rejection Procedures

13. Pursuant to Bankruptcy Code sections 365 and 554, the Debtors respectfully request that this Court enter an order establishing procedures (the "Rejection Procedures") for the future rejection of unexpired leases of real property (the "Future Rejected Leases") and the abandonment of certain property that is related to the Future Rejected Leases (the "Related Property"). The proposed Rejection Procedures are as follows:

- a. The Debtors will file on the docket for these chapter 11 cases a notice (the "Rejection Notice") setting forth the proposed rejection of one or more Leases, and will serve the Rejection Notice via (a) Federal Express or other overnight mail delivery service and (b) fax or email (where available) on: (i) the counterparties to the Future Rejected Leases; (ii) known counsel to the counterparties to the Future Rejected Leases; (iii) the Office of the United States Trustee for the Southern District of New York (the "U.S. Trustee"); (iv) counsel to the Official Committee of Unsecured Creditors (the "Committee"); and (v) any known third parties that have a known interest in Related Property (collectively, the "Notice Parties").
- b. The Rejection Notice shall be substantially in the form of Exhibit A annexed hereto. With respect to Leases to be rejected, the Rejection Notice shall set forth the following information, to the best of the Debtors' information: (i) the street address of real property that is the subject of the Lease (if applicable), (ii) the monthly rental obligation, (iii) the remaining

term of the Lease, and (iv) the name and address of the affected landlord. All Rejection Notices shall be accompanied by a copy of this Order.

- c. Should a party in interest object to the Debtors' proposed rejection of a Lease, such party must file and serve a written objection so that such objection is filed with this Court and actually received by the following parties (the "Objection Notice Parties") no later than fourteen (14) days after the date the Rejection Notice is filed: (i) counsel to Jennifer Convertibles, Inc., Olshan Grundman Frome Rosenzweig & Wolosky LLP, Park Avenue Tower, 65 East 55th Street, New York NY 10022, Attention: Michael S. Fox, Esq. and Jordanna L. Nadritch, Esq.; (ii) counsel to the Committee, Kelley Drye & Warren LLP, 101 Park Avenue, New York NY 10178, Attention: James S. Carr, Esq.; and (iii) the Office of the U.S. Trustee, 33 Whitehall Street, 21st Floor, New York, NY 10004, Attention: Nazar Khodorovsky, Esq. and Andy Velez-Rivera, Esq.
- d. If no objection to a Rejection Notice is timely filed, the applicable lease shall be deemed rejected on the effective date set forth in the Rejection Notice, or, if no such date is set forth therein, the date the Rejection Notice is filed with the Court, provided, however, that the effective date of the rejection of a lease shall not occur until (i) the Debtors unequivocally relinquish control of the premises to the affected landlords in writing of the Debtors' surrender of the premises or by turning over keys or "key codes" to the affected landlord and (ii) the Collection Period (as defined below), if applicable, expires (the "Rejection Date").
- e. If an objection to a Rejection Notice is timely filed and received in accordance with these Rejection Procedures, the Debtors will attempt to reach a consensual resolution of such objection. If the parties are unable to resolve the objection, the Debtors shall schedule a hearing on such objection and shall provide at least five (5) days' notice of such hearing to the objecting party and the Objection Notice Parties. If such objection is overruled by the Court or withdrawn by the objecting party, then the applicable lease shall be deemed rejected as of (a) the Rejection Date, or (b) such other date as the Court may set forth in any order overruling such objection. If the objection concerns the abandonment of property or other matters that may be determined independently of the rejection of the lease, the rejection of such lease shall be deemed to have occurred on the Rejection Date.
- f. In connection with the rejection of a Future Rejected Lease, if the Debtors have deposited monies with a Future Rejected Lease counterparty as a security deposit or other arrangement, such Future Rejected Lease counterparty may not set off or recoup or otherwise use such deposit without prior approval of this Court or agreement of the parties.

- g. If any party (the “Rejection Claimant”) wishes to assert a claim against the Debtors arising from or relating to the rejection of a Future Rejected Lease, such Rejection Claimant shall file a proof of claim, such that it is received by BMC Group, Inc. (the Debtors’ claims and noticing agent) on or before the later of (i) the date that is thirty days after the effective date of rejection of the Future Rejected Lease, or (ii) the general bar date established by this Court for filing proofs of claim against the Debtors. If a Rejection Claimant does not timely file such proof of claim, such claimant shall be forever barred from asserting a claim for any damages arising from or relating to the Future Rejected Lease.
- h. The Debtors are authorized to remove from premises that are the subject of a Rejection Notice (i) personal property, consistent with the Debtors’ ownership rights or other interests therein, and (ii) personal property that the Debtors have installed in or about the leased premises (i.e., fixtures, furniture, equipment, and other property) that is either owned by the Debtors, leased by the Debtors from third parties, or subject to any equipment financing agreements with third parties.
- i. With respect to the rejection of a Future Rejected Lease, if the Debtors determine that any property located at such location has little or no value or that the preservation thereof will be burdensome to their estates compared with the expense of removing and storing such property, the Debtors are authorized, in their sole discretion, to abandon such property pursuant to section 554 of the Bankruptcy Code. Property proposed to be abandoned shall be described with reasonable specificity on the applicable Rejection Notice.
- j. No personal property subject to a true lease shall be abandoned without first rejecting the underlying lease for such property. If the Debtors propose to abandon personal property that is (i) subject to a true lease and (ii) located at a premises that is the subject of a Rejection Notice, such Rejection Notice shall indicate that the underlying personal property lease is also being rejected and the property abandoned, and the applicable personal property lessor shall have seven (7) days from the date the Rejection Notice is filed to retrieve its property (the “Collection Period”). If such property is not retrieved by the Collection Period, the property shall be deemed abandoned without further order of this Court free and clear of any interests and landlord or its designee shall be free to dispose of same without liability to any party.
- k. In all events, any personal property remaining at any premises as of the Rejection Date, or the expiration of the Collection Period if the property is subject to a true lease, shall be deemed abandoned without further order of this Court free and clear of any interests and landlord or its designee shall be free to dispose of same without liability to any party. The right of any party in interest to assert a claim against the Debtors’ estates for costs

associated with abandoned property is preserved; provided, however, that any claim must be made within the time set by this Court in this order for filing proofs of claim. The Debtors and the Committee's rights to contest any such claim are fully preserved.

14. In connection with the foregoing, the Debtors also request that they be authorized to execute and deliver all instruments and documents, and take such other actions as may be necessary or appropriate to implement and effectuate the Rejection Procedures as approved by this Court, and that entry of the requested order be without prejudice to the Debtors' right to seek further, other, or different relief regarding the Leases.

15. The proposed Rejection Procedures will streamline the Debtors' ability to reject burdensome unexpired leases of real property. These proposed Rejection Procedures minimize unnecessary post-petition obligations, while also providing affected parties with adequate notice of the rejection of any unexpired lease of real property, and a reasonable opportunity to object to such rejection. Accordingly, the Debtors respectfully submit that the proposed Rejection Procedures should be approved, as they appropriately balance the respective interests of the parties, and are an appropriate exercise of the Debtors' business judgment.

Basis For Relief

16. Section 365(a) of the Bankruptcy Code provides, in pertinent part, that a debtor in possession "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a). The United States Court of Appeals for the Second Circuit has stated that "[t]he purpose behind allowing the assumption or rejection of executory contracts is to permit the trustee or debtor-in-possession to use valuable property of the estate and to 'renounce title to and abandon burdensome property.'" Orion Pictures Corp. v. Showtime Networks, Inc. (In re Orion Pictures Corp.), 4 F.3d 1095, 1098 (2d Cir. 1993).

17. The business judgment standard is employed by courts in determining whether to permit a debtor to assume or reject a contract. In re Old Carco LLC, 406 B.R. 180, 188 (Bankr. S.D.N.Y. 2009), citing In re Penn Traffic Co., 524 F.3d 373, 383 (2d Cir. 2008); NLRB v. Bildisco & Bildisco, 465 U.S. 513, 523 (1984). In applying the “business judgment” standard, debtors are usually given significant discretion when requesting to assume or reject an executory contract or unexpired lease. See In re Riodizio, Inc., 204 B.R. 417, 424 (Bankr. S.D.N.Y. 1997) (“[A] court will ordinarily defer to the business judgment of the debtor’s management”). The business judgment standard mandates that a court shall approve a debtor’s business decisions unless the decision is the product of bad faith or gross abuse of discretion. Id., see also In re G Survivor Corp., 171 B.R. 755, 757 -8 (Bankr. S.D.N.Y. 1994), citing Lubrizol Enters., Inc. v. Richmond Metal Finishers, Inc., 756 F.2d 1043, 1047 (4th Cir. 1985), cert. denied, 475 U.S. 1057 (1986); In re Chipwich, Inc., 54 B.R. 427, 430-31 (Bankr. S.D.N.Y. 1985) (finding that a court should not interfere with a debtor’s decision to assume or reject “absent a showing of bad faith or abuse of business discretion”).

18. With respect to the Debtors’ request for authority to abandon the property, the Debtors submit that the standard set forth in section 554(a) of the Bankruptcy Code is satisfied. Bankruptcy Code section 554(a) provides that a debtor in possession may abandon, subject to Court approval, “property of the estate that ... is of inconsequential value and benefit to the estate.” 11 U.S.C. § 554(a). Before authorizing abandonment of the property, the bankruptcy court must find either that: (a) the property is burdensome to the estate or (b) the property is both of inconsequential value and inconsequential benefit to the estate. See, e.g., Midatlantic Nat’l Bank v. N.J. Dep’t of Ent’l. Prot., 474 U.S. 494, 497 (1986), reh’g denied, 475 U.S. 1090 (1986); In re Texaco, Inc., 92 B.R. 38, 44 (S.D.N.Y. 1988); In re Crowthers McCall Pattern, Inc., 114

B.R. 877, n.7 (Bankr. S.D.N.Y. 1990). Here, the personal property proposed to be abandoned primarily consists of fixtures, furniture, advertising displays, and other office and store equipment that is (a) of no value or benefit to the Debtors' estates and/or (b) burdensome insofar as the costs of removal and storage of such property is likely to exceed the net proceeds realizable from their sale.

19. Moreover, Bankruptcy Code section 105(a) provides in relevant part that "[t]he Court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a). The Debtors submit that the relief requested herein is appropriate in these chapter 11 cases and is well within the Court's equitable powers under Bankruptcy Code section 105.

20. The Rejection Procedures set forth herein and in the proposed order allow the Debtors to exercise their business judgment and ensure that unnecessary administrative costs are avoided. The counterparties to the Future Rejected Leases will not be prejudiced by the Rejection Procedures because, upon receipt of a Rejection Notice, such counterparties will have received notice of the Debtors' intent to reject the Future Rejected Leases and of the effective date of the rejection, and will have the opportunity to submit an objection. The Debtors submit that the proposed Rejection Procedures balance the need for an expeditious reduction of burdensome costs to the Debtors' estates while providing due notice of the proposed rejection to the counterparties.

21. The Debtors therefore submit that the proposed Rejection Procedures set forth herein are fair and equitable, and request that the Court approve the Rejection Procedures as set forth above and in the proposed order.

Notice

22. Notice of this Motion has been provided to: (i) Office of the United States Trustee for the Southern District of New York; (ii) counsel to the Official Committee of Unsecured Creditors; (iii) counsel to Haining Mengnu Group Co. Ltd.; (iv) the counterparties to each of the Debtors' unexpired leases of real property that are known to the Debtors; and (v) any other party who has filed a notice of appearance in these cases. The Debtors submit that such notice is sufficient under the circumstances.

No Previous Request

23. No previous request for the relief sought herein has been made to this or any other Court.

WHEREFORE the Debtors respectfully request entry of the Proposed Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: New York, New York
August 9, 2010

OLSHAN GRUNDMAN FROME
ROSENZWEIG & WOLOSKY LLP

By: /s/ Michael S. Fox
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*Proposed Attorneys for the Debtors and
Debtors in Possession*

EXHIBIT A

Rejection Notice

**OLSHAN GRUNDMAN FROME
ROSENZWEIG & WOLOSKY LLP**

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Proposed Counsel to the Debtors and Debtors in Possession

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

In re:

JENNIFER CONVERTIBLES, INC., *et al.*,¹
Debtors.

Chapter 11

Case No. 10-13779 (ALG)

(Jointly Administered)

NOTICE OF PROPOSED REJECTION OF UNEXPIRED LEASES

PLEASE TAKE NOTICE that on August __, 2010, the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) entered an *Order Approving Expedited Procedure for Rejection of Certain Unexpired Leases of Nonresidential Real Property* (the “Procedures Order”) in the above-referenced chapter 11 cases of Jennifer Convertibles, Inc. and its debtor affiliates, as debtors and debtors in possession (collectively, the “Debtors”), approving expedited procedures (the “Rejection Procedures”) for the rejection of unexpired leases of nonresidential property.

¹ 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).

PLEASE TAKE FURTHER NOTICE that in accordance with the terms of the Procedures Order, the Debtors hereby provide notice of their intent to reject the leases described in Annex I hereto (the “Affected Leases”) and to abandon certain property that is related to or located on the premises that are subject to the Affected Leases (the “Related Property”). Pursuant to the terms of the Procedures Order, unless a written objection is filed and served in accordance with the terms of the Procedures Order, the Affected Leases will be rejected pursuant to 11 U.S.C. § 365(a), and the Related Property shall be abandoned pursuant to 11 U.S.C. § 554(a) on the effective date set forth in this Notice, or, if no such date is set forth herein, the date this Notice is filed with the Court, provided, however, that the effective date of the rejection of a lease shall not occur until (i) the Debtors unequivocally relinquish control of the premises to the affected landlords in writing of the Debtors’ surrender of the premises or by turning over keys or “key codes” to the affected landlord, and (ii) the Collection Period (as defined below), if applicable, expires (the “Rejection Date”).

PLEASE TAKE FURTHER NOTICE that if any property that is proposed to be abandoned is subject to a personal property lease, the personal property lessor with respect to such property shall have seven (7) days from the date this Notice is filed to retrieve their property (the “Collection Period”).

PLEASE TAKE FURTHER NOTICE that, should you object to the Debtors’ rejection of the Affected Leases, you must file and serve a written objection so that such objection is filed with the Court and actually received by the following parties no later than fourteen (14) days after the date the Rejection Notice is filed with the court: (i) counsel to Jennifer Convertibles, Inc., Olshan Grundman Frome Rosenzweig & Wolosky LLP, Park Avenue Tower, 65 East 55th Street, New York NY 10022, Attention: Michael S. Fox, Esq. and Jordanna L. Nadritch, Esq.;

(ii) counsel to the Committee, Kelley Drye & Warren LLP, 101 Park Avenue, New York NY 10178, Attention: James S. Carr, Esq.; and (iii) the Office of the U.S. Trustee, 33 Whitehall Street, 21st Floor, New York, NY 10004, Attention: Nazar Khodorovsky, Esq. and Andy Velez-Rivera, Esq.

PLEASE TAKE FURTHER NOTICE that if an objection to this Notice is timely filed and received in accordance with these Rejection Procedures, the Debtors shall attempt to reach a consensual resolution of such objection. If the parties are unable to resolve the objection, the Debtors shall schedule a hearing on such objection and shall provide at least five (5) days' notice of such hearing to the objecting party and the Objection Notice Parties. If such objection is overruled by the Court or withdrawn by the objecting party, then the applicable lease shall be deemed rejected as of (a) the Rejection Date, or (b) such other date as the Court may set forth in any order overruling such objection. If the objection concerns the abandonment of property or other matters that may be determined independently of the rejection of the lease, the rejection of such lease shall be deemed to have occurred on the Rejection Date.

PLEASE TAKE FURTHER NOTICE that, in connection with the rejection of an Affected Lease, if the Debtors have deposited monies with an Affected Lease counterparty as a security deposit or other arrangement, such Affected Lease counterparty may not set off or recoup or otherwise use such deposit without prior approval of this Court or agreement of the parties.

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Order, should you have a claim for any damages as a result of any Affected Leases, you must submit a proof of claim to BMC Group, Inc. (the Debtors' claims and noticing agent) on or before the later of (i) the date that is thirty days after the effective date of the rejection of such Affected Lease, or (ii)

the general bar date established by this Court for filing proofs of claim against the Debtors. If you do not timely file such proof of claim, you shall be forever barred from asserting a claim for any damages.

PLEASE TAKE FURTHER NOTICE that, in all events, any personal property remaining at any premises as of the Rejection Date, or the expiration of the Collection Period if the property is subject to a true lease, shall be deemed abandoned without further order of this Court free and clear of any interests and landlord or its designee shall be free to dispose of same without liability to any party. The right of any party in interest to assert a claim against the Debtors' estates for costs associated with abandoned property is preserved; provided, however, that any claim must be made within the time set by this Court in this order for filing proofs of claim. The Debtors and the Committee's rights to contest any such claim are fully preserved.

Dated: New York, New York
August __, 2010

OLSHAN GRUNDMAN FROME
ROSENZWEIG & WOLOSKY LLP

By: _____
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Jayme M. Bethel
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*Proposed Attorneys for the Debtors and
Debtors in Possession*

ANNEX I

Affected Leases

<u>ADDRESS OF SUBJECT PROPERTY</u>	<u>MONTHLY RENTAL OBLIGATION</u>	<u>REMAINING LEASE TERM</u>	<u>LANDLORD NAME/ADDRESS</u>	<u>EFFECTIVE DATE OF REJECTION</u>

<u>DESCRIPTION OF PROPERTY TO BE ABANDONED</u>	<u>SUBJECT TO PERSONAL PROPERTY LEASE</u>

EXHIBIT B

Proposed Order

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

In re:

JENNIFER CONVERTIBLES, INC.,¹
Debtors.

Chapter 11

Case No. 10-13779 (ALG)

(Jointly Administered)

**ORDER APPROVING EXPEDITED PROCEDURE FOR REJECTION OF
CERTAIN UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY**

Upon the motion, dated August 9, 2010 (the “Motion”)² of Jennifer Convertibles, Inc. and its affiliated debtors, as debtors in possession (collectively, the “Debtors”), for entry of an order approving an expedited procedure for rejection of certain unexpired leases of nonresidential real property; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b) 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 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, and it appearing that no other or further notice need be provided; 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

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

relief requested in the Motion is in the best interests of the Debtors, their estates, and creditors; 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.
2. The Debtors are authorized, but not required, to (i) reject unexpired leases of real property pursuant to Bankruptcy Code section 365(a) and (ii) abandon property pursuant to Bankruptcy Code section 554(a), through the following procedures (the “Rejection Procedures”):
 - a. The Debtors will file on the docket for these chapter 11 cases a notice (the “Rejection Notice”) setting forth the proposed rejection of one or more Leases, and will serve the Rejection Notice via (a) Federal Express or other overnight mail delivery service and (b) fax or email (where available) on: (i) the counterparties to the Future Rejected Leases; (ii) known counsel to the counterparties to the Future Rejected Leases; (iii) the Office of the United States Trustee for the Southern District of New York (the “U.S. Trustee”); (iv) counsel to the Official Committee of Unsecured Creditors (the “Committee”); and (v) any known third parties that have a known interest in Related Property (collectively, the “Notice Parties”).
 - b. The Rejection Notice shall be substantially in the form of Exhibit A annexed hereto. With respect to Leases to be rejected, the Rejection Notice shall set forth the following information, to the best of the Debtors’ information: (i) the street address of real property that is the subject of the Lease (if applicable), (ii) the monthly rental obligation, (iii) the remaining term of the Lease, and (iv) the name and address of the affected landlord. All Rejection Notices shall be accompanied by a copy of this Order.
 - c. Should a party in interest object to the Debtors’ proposed rejection of a Lease, such party must file and serve a written objection so that such objection is filed with this Court and actually received by the following parties (the “Objection Notice Parties”) no later than fourteen (14) days after the date the Rejection Notice is filed: (i) counsel to Jennifer Convertibles, Inc., Olshan Grundman Frome Rosenzweig & Wolosky LLP, Park Avenue Tower, 65 East 55th Street, New York NY 10022, Attention: Michael S. Fox, Esq. and Jordanna L. Nadritch, Esq.; (ii) counsel to the Committee, Kelley Drye & Warren LLP, 101 Park Avenue, New York NY 10178, Attention: James S. Carr, Esq.; and (iii) the Office

of the U.S. Trustee, 33 Whitehall Street, 21st Floor, New York, NY 10004, Attention: Nazar Khodorovsky, Esq. and Andy Velez-Rivera, Esq.

- d. If no objection to a Rejection Notice is timely filed, the applicable lease shall be deemed rejected on the effective date set forth in the Rejection Notice, or, if no such date is set forth therein, the date the Rejection Notice is filed with the Court, provided, however, that the effective date of the rejection of a lease shall not occur until (i) the Debtors unequivocally relinquish control of the premises to the affected landlords in writing of the Debtors' surrender of the premises or by turning over keys or "key codes" to the affected landlord and (ii) the Collection Period (as defined below), if applicable, expires (the "Rejection Date").
- e. If an objection to a Rejection Notice is timely filed and received in accordance with these Rejection Procedures, the Debtors shall attempt to reach a consensual resolution of such objection. If the parties are unable to resolve the objection, the Debtors shall schedule a hearing on such objection and shall provide at least five (5) days' notice of such hearing to the objecting party and the Objection Notice Parties. If such objection is overruled by the Court or withdrawn by the objecting party, then the applicable lease shall be deemed rejected as of (a) the Rejection Date, or (b) such other date as the Court may set forth in any order overruling such objection. If the objection concerns the abandonment of property or other matters that may be determined independently of the rejection of the lease, the rejection of such lease shall be deemed to have occurred on the Rejection Date.
- f. In connection with the rejection of a Future Rejected Lease, if the Debtors have deposited monies with a Future Rejected Lease counterparty as a security deposit or other arrangement, such Future Rejected Lease counterparty may not set off or recoup or otherwise use such deposit without prior approval of this Court or agreement of the parties.
- g. If any party (the "Rejection Claimant") wishes to assert a claim against the Debtors arising from or relating to the rejection of a Future Rejected Lease, such Rejection Claimant shall file a proof of claim, such that it is received by BMC Group, Inc. (the Debtors' claims and noticing agent) on or before the later of (i) the date that is thirty days after the effective date of rejection of the Future Rejected Lease, or (ii) the general bar date established by this Court for filing proofs of claim against the Debtors. If a Rejection Claimant does not timely file such proof of claim, such claimant shall be forever barred from asserting a claim for any damages arising from or relating to the Future Rejected Lease.
- h. The Debtors are authorized to remove from premises that are the subject of a Rejection Notice (i) personal property, consistent with the Debtors' ownership rights or other interests therein, and (ii) personal property that

the Debtors have installed in or about the leased premises (i.e., fixtures, furniture, equipment, and other property) that is either owned by the Debtors, leased by the Debtors from third parties, or subject to any equipment financing agreements with third parties.

- i. With respect to the rejection of a Future Rejected Lease, if the Debtors determine that any property located at such location has little or no value or that the preservation thereof will be burdensome to their estates compared with the expense of removing and storing such property, the Debtors are authorized, in their sole discretion, to abandon such property pursuant to section 554 of the Bankruptcy Code. Property proposed to be abandoned shall be described with reasonable specificity on the applicable Rejection Notice.
- j. [[No personal property subject to a true lease shall be abandoned without first rejecting the underlying lease for such property. If the Debtors propose to abandon personal property that is (i) subject to a true lease and (ii) located at a premises that is the subject of a Rejection Notice, such Rejection Notice shall indicate that the underlying personal property lease is also being rejected and the property abandoned, and the applicable personal property lessor shall have seven (7) days from the date the Rejection Notice is filed to retrieve its property (the "Collection Period"). If such property is not retrieved by the Collection Period, the property shall be deemed abandoned without further order of this Court free and clear of any interests and landlord or its designee shall be free to dispose of same without liability to any party.]]
- k. In all events, any personal property remaining at any premises as of the Rejection Date, or the expiration of the Collection Period if the property is subject to a true lease, shall be deemed abandoned without further order of this Court free and clear of any interests and landlord or its designee shall be free to dispose of same without liability to any party. The right of any party in interest to assert a claim against the Debtors' estates for costs associated with abandoned property is preserved; provided, however, that any claim must be made within the time set by this Court in this order for filing proofs of claim. The Debtors and the Committee's rights to contest any such claim are fully preserved.

3. Pursuant to section 365(a) of the Bankruptcy Code, the Debtors' rejection of the leases in accordance with the Rejection Procedures set forth in this Order is hereby approved and such Rejection Procedures shall govern the rejection of leases, except to the extent the Debtors and a counterparty have agreed otherwise in writing, in which case the terms of such agreement shall govern the rejection of the lease with respect to such counterparty.

4. Pursuant to section 554(a) of the Bankruptcy Code, the Debtors are authorized to abandon any personal property, furniture, fixtures, and/or equipment remaining at the premises subject to a rejected lease in accordance with the procedures set forth in this Order.

5. The Debtors are hereby authorized to execute and deliver all instruments and documents, and take such other actions, as may be necessary or appropriate to implement and effectuate the Rejection Procedures.

6. Entry of this Order is without prejudice to the rights of the Debtors, including, but not limited to, the right to seek further, other, or different relief regarding the Leases pursuant to, among other things, section 365 of the Bankruptcy Code.

7. This Court shall retain jurisdiction to resolve all matters relating to implementation of this Order.

Dated: August __, 2010
New York, New York

UNITED STATES BANKRUPTCY JUDGE