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*Counsel for the Debtors and Debtors in Possession*

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

In re:

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

Debtors.

Chapter 11

Case No. 10-13779 (ALG)

(Jointly Administered)

**DEBTORS' APPLICATION TO EMPLOY AND RETAIN EISNER LLP AS AUDITORS  
TO THE DEBTORS AND DEBTORS IN POSSESSION PURSUANT  
TO SECTIONS 327(a), 330, 331 AND 1107(b) OF THE BANKRUPTCY CODE**

Jennifer Convertibles, Inc. ("Jennifer Convertibles") and its affiliated debtors, as debtors in possession (together, the "Debtors"), hereby apply to this Court (the "Application") for entry of an order pursuant to sections 327(a), 330, 331 and 1107(b) of title 11 of the Bankruptcy Code, Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 2014-1 of the Local Rules of the Bankruptcy Court of the Southern District of New York (the "Local Rules"), authorizing the Debtors to retain and employ Eisner LLP ("Eisner"), as auditors,

<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).

*nunc pro tunc* to the commencement of these chapter 11 cases (the “Application”). In support of the Application, the Debtors rely upon and incorporate by reference the Affidavit of Steven Kreit (the “Kreit Affidavit”), annexed hereto as Exhibit B. In support of this Application, the Debtors respectfully state as follows:

### **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. 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 Applications (the "Abada Declaration") filed on July 19, 2010 and incorporated herein by reference.

### **Jurisdiction**

6. 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.

7. The statutory predicates for the relief requested herein are sections 105(a), 327(a) and 330 of title 11 of the United States Code (the "Bankruptcy Code").

### **Relief Requested**

8. By this Application, the Debtors entry of an order, pursuant to sections 327(a), 330, 331 and 1107(b) of the Bankruptcy Code, Rule 2014 of the Bankruptcy Rules and Local Rule 2014-1, authorizing the employment and retention of Eisner as auditors to the Debtors, *nunc pro tunc* to the Petition Date, pursuant to terms of an engagement letter, dated as of June 2, 2010 (the "Engagement Letter"), a copy of which is annexed hereto as Exhibit A. It is proposed that Eisner will provide assistance with the completion of the Debtors' 2010 audit, for the fiscal year ending August 28, 2010 and upon completion of the audit and subject to its findings, issue an opinion report.

9. The Debtors request that they be permitted to employ and retain Eisner, *nunc pro tunc* to the Petition Date, on terms substantially similar to those in effect prior to the Petition Date, but subject to the limitations described herein. The Debtors represent that: (a) they desire to employ Eisner as necessary for the Debtors' operations and to be in compliance with the reporting requirements of the Securities Exchange Commission; (b) the expenses for Eisner will

be kept to a minimum; and (c) Eisner will not perform substantial services relating to bankruptcy matters without permission of this Court.

### **QUALIFICATIONS AND SERVICES**

10. The Debtors seek authority to continue to employ and retain Eisner as an ordinary course professional, to render auditing services to the Debtors. The Debtors have selected Eisner as their auditors because of Eisner's diverse experience and extensive knowledge in the fields of accounting and taxation. In addition, Eisner has provided auditing services to the Debtors prepetition. By virtue of its prepetition engagement by the Debtors, Eisner is familiar with the books, records, financial information and other data maintained by the Debtors and is well-qualified to continue to provide accounting and financial advisory services to the Debtors. Therefore, retaining Eisner is an efficient and cost effective manner in which the Debtors may obtain the requisite services and such retention is reasonable and in the best interests of the estates.

#### **Services to be Rendered**

11. If this Application is approved, Eisner will continue to provide audit services to the Debtors. Eisner professionals, including Steven Kreit, who will lead the Eisner team, will work closely with the Debtors' management and other professionals throughout these cases. The professional services that Eisner will render to the Debtors may include, without limitation, the following:

- a. audit the Debtors' consolidated balance sheet and related consolidated statements of operations and comprehensive income and cash flows for the year ending August 28, 2010;
- b. upon completion of the audit, subject to its findings and professional judgment, issue a report expressing an opinion regarding the financial statements; and

- c. perform any other permitted non-audit services that may be requested by the Debtors and covered in a separate engagement letter.

12. Such professional services are necessary to ensure that the Debtors make necessary filings with the taxing authorities during the bankruptcy process.

13. Specifically, Eisner performs audits of the Debtors' consolidated balance sheets and the related consolidated statements of operations, stockholders' equity and cash flows for each fiscal year. The Debtors' fiscal year ends on August 28, 2010, and the Debtors need Eisner to ensure that they are in compliance with the Sarbanes-Oxley Act of 2002, Section 404 requirements. The Debtors submit that the retention of Eisner and the payment of Eisner's compensation on the basis set forth herein is reasonable and in the best interests of the Debtors, their estates, creditors, and other parties in interest. As set forth above, Eisner has previously worked with the Debtors and has gained considerable expertise and background knowledge in that time. If the Debtors are forced to retain an alternate auditor, the estates undoubtedly would incur additional and unnecessary expenses. It is therefore in the best interests of the Debtors' estates to avoid any disruption in the professional services required in the operation of their businesses.

#### Compensation

14. The Debtors have been mindful of the need to minimize expenses related to professionals given the precarious nature of their finances. Accordingly, the Debtors have carefully determined that the services of Eisner are absolutely critical for the operation of the Debtors' business. As a public reporting company, the Debtors are required by law to comply with the Sarbanes-Oxley Act of 2002, and Eisner's professional services are necessary to ensure that the Debtors make necessary filings with the taxing authorities during the bankruptcy process. Thus Eisner's services are vital to the Debtors' continuing operations.

15. The Debtors therefore propose that they be permitted to pay, without formal application to this Court, 100% of the postpetition fees and disbursements to Eisner upon the submission to the Debtors of an appropriate invoice in accordance with Eisner's standard billing practices (without prejudice to the Debtors' normal right to dispute any such invoices). Pursuant to the terms of the Engagement Letter, Eisner estimates that fees for the audit of the Debtors financial statements will be approximately \$255,000 annually, including out-of-pocket costs and \$12,500 per quarter for interim reviews, all as set forth in greater detail in the Engagement Letter attached hereto as Exhibit A. As such, the Debtors submit that a cap in the amount of \$255,000 (the "Fee Cap") be imposed, and to the extent that fees payable to Eisner exceed the Fee Cap, such fees will be subject to prior approval of the Court in accordance with section 330 of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules; provided, however, Eisner will be entitled to payment up to the Fee Cap as a credit against the fee and disbursements ultimately allowed by the Court.

16. The Debtors believe that the fees and compensation of Eisner and the terms of the engagement are fair and reasonable in light of industry practice, market rates both in and out of chapter 11 proceedings, Eisner's experience in reorganizations and the scope of work to be performed pursuant to its retention.

17. In connection with these cases, the Debtors have retained (a) Olshan Grundman Frome Rosenzweig & Wolosky LLP as general counsel, (b) TM Capital Corp. to provide financial advisor services, (c) KPMG CF Realty LLC as special real estate advisor, and (d) BMC Group, Inc. as claims and noticing agent. Each of these firms will work under the direction of the Debtors' management. Eisner is prepared to work closely with each of the Debtors' professionals to ensure that there is no unnecessary duplication of effort or cost.

### **Disclosure of Disinterestedness**

18. As further described in the Kreit Affidavit, attached hereto as Exhibit B, the Debtors believe that: (a) Eisner has no connection with the Debtors, their creditors, the U.S. Trustee, any person employed in the Office of the U.S. Trustee or any other party with an actual or potential interest in these chapter 11 cases or their respective attorneys or accountants; (b) Eisner is not a creditor, equity security holder or insider of the Debtors; (c) Eisner is not and was not, within two years of the Petition Date, a director, officer or employee of the Debtors; and (d) Eisner does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with or interest in, the Debtors or for any other reason.

19. Accordingly, based on the Kreit Affidavit, the Debtors believe that Eisner (a) does not hold or represent any interest adverse to the Debtors or their estates, and (b) is a “disinterested person” as that term is defined in section 101(14) of the Bankruptcy Code. Moreover, the Debtors believe that employment of Eisner is necessary and in the best interests of the Debtors and their estates.

20. As set forth in the Kreit Affidavit, the Debtors do not owe Eisner any amounts for professional services rendered prior to the Petition Date.

### **Basis For Relief**

21. Pursuant to section 327(a) of the Bankruptcy Code, a debtor “may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, and that are disinterested persons, to represent or assist the trustee in carrying out the [debtor’s] duties . . . .” 11 U.S.C. § 327(a).

22. Section 101(14) of the Bankruptcy Code defines “disinterested person” as a person that:

- a. is not a creditor, an equity security holder, or an insider;
- b. is not and was not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the debtor; and
- c. does not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the debtor, or for any other reason.

23. Bankruptcy Rule 2014 provides, in relevant part, as follows:

An order approving the employment of attorneys, accountants, appraisers, auctioneers, agents, or other professionals pursuant to § 327 . . . of the Code shall be made only on application of the trustee or committee.

Fed R. Bankr. P. 2014.

24. Local Rule 2014-1 provides, in relevant part, as follows:

An application for the employment of a professional person pursuant to §§ 327 and 328 of the Bankruptcy Code shall state the specific facts showing the reasonableness of the terms and conditions of the employment, including the terms of any retainer, hourly fee or contingent fee arrangement.

S.D.N.Y. LBR 2014-1.

25. As set forth above, Eisner has considerable expertise and background knowledge of the Debtors' businesses. Forcing the Debtors to retain an alternate auditor would incur additional and unnecessary expenses. As such, the Debtors believe retention of Eisner as their auditor is in the best interests of the Debtors, their estates, creditors, and other parties in interest. The Debtors believe it is essential that the employment of Eisner be continued to avoid disruption of the Debtors' normal business operations, since without Eisner the Debtors will not be able to complete their 10-K at the end of their fiscal year, which concludes on August 28, 2010.

26. The Debtors therefore submit that the proposed employment of Eisner and the payment of compensation on the basis set forth herein are both reasonable and in the best interest of their estates and creditors. Accordingly, the Debtors respectfully request that the relief sought herein is granted.

#### **Notice**

27. Notice of this Application has been provided to: (i) Office of the United States Trustee for the Southern District of New York; (ii) those creditors holding the thirty (30) largest unsecured claims against the Debtors' estates (on a consolidated basis); (iii) counsel to the Official Committee of Unsecured Creditors; and (iv) any other party directly affected by this Application. The Debtors submit that such notice is sufficient under the circumstances.

#### **No Previous Request**

28. 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 13, 2010

OLSHAN GRUNDMAN FROME  
ROSENZWEIG & WOLOSKY LLP

By: /s/ Michael S. Fox  
Michael S. Fox  
Jordanna L. Nadritch  
Jayme M. Bethel  
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New York, New York 10022  
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*Counsel for the Debtors and Debtors in  
Possession*

**EXHIBIT A**

**Engagement Letter**

# Eisner

Eisner LLP  
Accountants and Advisors

750 Third Avenue  
New York, NY 10017-2703  
Tel 212.949.8700 Fax 212.891.4100  
www.eisnerllp.com

June 2, 2010

Mr. Ed Bohn  
c/o Nova Corp  
74 West Sheffield Avenue  
Englewood, NJ 07631

and

Mr. Rami Abada  
Jennifer Convertibles, Inc. and Subsidiaries  
417 Crossways Park Drive  
Woodbury, NY 11797

Gentlemen:

This letter is to confirm our understanding of the terms of our engagement as independent auditors of Jennifer Convertibles, Inc. and subsidiaries (the "Company") and the nature and extent of the services which we will provide.

## **Audit Responsibilities and Limitations**

### *Audit of Financial Statements*

We will perform an audit of the Company's consolidated balance sheet and the related consolidated statements of operations, stockholders' equity and cash flows as of August 28, 2010 and for the year then ended. Our responsibility is to express an opinion on the financial statements based on our audit.

Our audit will be conducted in accordance with standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"). Those standards require that we plan and perform the audit to obtain reasonable, rather than absolute, assurance about whether the financial statements are free of material misstatement whether caused by error or fraud. Accordingly, a material misstatement may remain undetected.

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. An audit made in accordance with standards of the PCAOB, based on the concept of selective testing of the data being examined, is subject to the inherent limitations of the auditing process and to the inherent risk that material errors or fraud, if they exist, will not necessarily be detected. An audit is not designed and cannot be relied on to detect error or fraud that is immaterial to the financial statements.

In addition, if the exemption of small companies from Section 404(b) of Sarbanes-Oxley is not deferred, we will perform an integrated audit which will encompass the Company's internal control over financial reporting as of the year end, based on criteria established in the PCAOB's Auditing Standard No. 5, *An Audit of Internal Control Over Financial Reporting That Is Integrated with An Audit of Financial Statements*. Our responsibility is to express an opinion on the effectiveness of the Company's internal control over financial reporting based on our audit.

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Our audit will be conducted in accordance with standards of the PCAOB to comply with the Sarbanes-Oxley Act of 2002, Section 404 requirements. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit will include obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we consider necessary. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

We are required to communicate in writing all identified deficiencies, including significant deficiencies, in internal controls to management and inform the audit committee that we have made such a communication. In addition, we are also required to communicate in writing all identified significant deficiencies and material weaknesses to the audit committee.

## *Review of Interim Financial Information*

We are responsible for conducting our review in accordance with the standards of the PCAOB. A review consists principally of inquiries of company personnel and analytical procedures applied to financial data. It is substantially less in scope than an audit in accordance with standards of the PCAOB, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we will not express an opinion on the interim financial information taken as a whole.

A review includes obtaining sufficient knowledge of the Company's business and its internal control as it relates to the preparation of both annual and interim financial information to:

- Identify the types of potential material misstatements in the interim financial information and consider the likelihood of their occurrence.
- Select the inquiries and analytical procedures that will provide us with a basis for communicating whether we are aware of any material modifications that should be made to the interim financial information for it to conform with generally accepted accounting principles.

A review is not designed to provide assurance on internal control or to identify significant deficiencies. However, we are responsible for communicating with the audit committee or others with equivalent authority or responsibility, regarding any significant deficiencies that come to our attention.

The engagement is being undertaken solely for the Company's benefit and the parties do not intend to provide contractual rights to any other person.

The working papers prepared in conjunction with our audit and reviews are the property of our firm, constitute confidential information and will be retained by us in accordance with our firm's policies and procedures.

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Company information will be treated as strictly confidential and will not be disclosed to a third party, except upon request from applicable SEC regulatory authorities, by subpoena, or upon the Company's express instruction. We will promptly notify you of such requests for information.

## **Management's Responsibilities and Representations**

The financial statements and interim financial information referred to above are the responsibility of the management of the Company. In this regard, management is responsible for properly recording transactions in the accounting records and establishing and maintaining effective internal control over financial reporting sufficient to permit the preparation of reliable financial statements and interim financial information. In addition, management is responsible for adjusting the financial statements and interim financial information to correct material misstatements aggregated by us during the current engagement and pertaining to the latest period presented. Management is also responsible for making available to us, upon request, all of the Company's original accounting records and related information, and Company personnel to whom we may direct inquiries, and to furnish us with such schedules and analyses as we require.

Management is responsible for identifying and ensuring that the Company complies with the laws and regulations applicable to its activities.

In an audit of internal control over financial reporting, management accepts responsibility for the effectiveness of the Company's internal control over financial reporting; evaluates the effectiveness of the Company's internal control over financial reporting using suitable control criteria; supports its evaluation with sufficient evidence, including documentation; and presents a written assessment of the effectiveness of the Company's internal control over financial reporting as of the end of the Company's fiscal year.

As required by standards of the PCAOB, we will make specific inquiries of management and others about the representations embodied in the financial statements and interim financial information, and the effectiveness of the Company's internal controls. Standards of the PCAOB also require that we obtain a representation letter covering the financial statements and interim financial information from certain members of management.

This representation letter must specifically state, among other items, that management is responsible for adjusting the financial statements and interim financial information to correct material misstatements and that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements and interim financial information taken as a whole.

The results of our audit tests, the responses to our inquiries, and the written representations constitute the evidential matter we intend to rely upon in forming an audit opinion on the financial statements.

If you intend to publish or otherwise reproduce the financial statements together with our report (or otherwise make reference to our firm) in a document that contains other information, you agree to (a) provide us with a draft of the document to read in advance, and (b) obtain our approval for inclusion of our report before it is printed and distributed.

### Scope of Services

- We will perform an audit of the Company's consolidated balance sheet and related consolidated statements of operations, stockholders' equity and cash flows as of August 28, 2010 and for the year then ended. In addition, our integrated audit will include an assessment of the Company's internal control over financial reporting as of the year end.
- We will perform reviews of the interim financial information to be included in the Company's quarterly filings on Form 10-Q for each of the quarters in the year ending August 28, 2010.

### Fees and Billing Arrangements

We estimate that our fees for the audit of the financial statements will be approximately \$255,000, including out-of-pocket costs and \$12,500 per quarter for the interim reviews. In the event that we are required to perform an audit of the internal control over financial reporting, we estimate that our fees for this audit will be an additional \$127,500, including out-of-pocket costs. In the event that unanticipated issues or problems require additional work, we will so advise you and will estimate the additional fees involved. In addition, should the nature of the Company change by addition of new subsidiaries, plants or other changes of a material nature, our fee will have to be adjusted.

We will issue progress bills for the estimated integrated audit fees, with the following due dates:

	Including Internal Control Audit	Excluding Internal Control Audit
August 29, 2010	\$94,375	\$62,500
September 29, 2010	\$94,375	\$62,500
October 29, 2010	\$94,375	\$62,500
November 29, 2010	\$94,375	\$62,500
Upon delivery of management letter	\$ 5,000	\$ 5,000

Additional amounts, if any, will be billed timely with payment due promptly upon presentation. In the event of nonpayment we shall not be required to perform any further services until we have received such payment, whereupon we will resume our work as soon as the individuals working on the engagement again become available.

Fees for the quarterly reviews and additional amounts, if any, will be billed timely with payment due promptly upon presentation. In the event of nonpayment we shall not be required to perform any further services until we have received such payment, whereupon we will resume our work as soon as the individuals working on the engagement again become available.

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Our estimate of these fees is based upon our discussions with you, in which you have disclosed no unusual problems or issues which would require us to conduct an audit of unusual scope or otherwise expend time and effort in excess of that normally anticipated in an engagement of this type. The estimate also assumes that we will have the full cooperation of your personnel, as required and that there is a reasonable continuity of personnel familiar with the matters to which our engagement relates. Further, you will provide us with the schedules and records that we request (which will be detailed in a request list in advance of our fieldwork) and that all such schedules and records will be provided to us timely in accordance with the scheduled fieldwork dates, to be mutually agreed upon. If the requested schedules and records are not provided to us in accordance with the scheduled dates and we are unable to continue our work, we will resume our work as soon as the schedules and records are provided to us and the individuals assigned to the engagement again become available.

It must be understood that the nature of our engagement requires us to exercise our independent professional judgment with respect to various auditing, accounting and related issues. In reaching our conclusions, we must retain the right to judge the nature and scope of the work required in order to conform to standards of the PCAOB, as well as the work we deem necessary to enable us to reach the conclusions and form the opinions required of us. If our judgment as to the scope of the work required causes us to reassess our foregoing estimate of fees for this engagement, we will so advise you. We reserve the right to refrain from performing additional work (and thereby incurring additional time charges) unless and until you have confirmed your understanding of, and agreement to, any additional estimated charges.

We acknowledge your right to terminate our services at any time, and you acknowledge our right to resign at any time (including instances where, in our judgment, our independence has been impaired or we can no longer rely on the integrity of management), subject in either case to our right to payment for charges incurred to the date of termination or resignation.

In the event that we determine to resign, and you seek damages allegedly resulting from such resignation, our maximum liability to you in the event we are held liable because of such resignation shall be limited to the fees actually paid to us to the date of resignation.

Eisner LLP and Jennifer Convertibles, Inc. each, to the extent permitted by law, knowingly, voluntarily and intentionally waives its right to a trial by jury in any action arising out of or relating to this Engagement Letter or the services to be performed by Eisner LLP pursuant hereto. This waiver applies to any action or legal proceeding whether sounding in contract, tort, negligence or otherwise.

Eisner LLP is a member firm of the PKF International Limited network of legally independent firms. Neither the other member firms nor providing services in connection with this engagement letter nor PKF International Limited is responsible to accept liability for the work or advice which Eisner LLP provides to its clients and, in signing and returning to us the enclosed copy of this engagement letter, you acknowledge and accept that such other member firms and PKF International Limited do not owe you any duty in relation to the work or advice which we will provide in accordance with this engagement letter.

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Not included in our fee are any additional projects you desire (beyond the audit and interim reviews specified above), such as tax examinations, assistance with technical accounting and tax matters, audit committee meetings and other communications with the audit committee, etc. Any such projects outside of the "Scope of Services" section of this letter, if requested, will be billed timely at our standard billing rates and will be due promptly upon presentation. Such services may require pre-approval from your audit committee to comply with independence rules under the Securities Exchange Act.

## **Other Non-attest Services**

To the extent we perform any non-attest services (including, but not limited to, the preparation of tax returns), you agree that you will make all management decisions and perform all management functions, designate competent employees to oversee the services, evaluate the adequacy and results of the services performed, accept responsibility for the results of the services and, where appropriate, establish and maintain internal controls including monitoring ongoing activities.

## **Independence**

To comply with independence rules under the Securities Acts administered by the Securities and Exchange Commission, the Company agrees not to hire, in a senior executive or financial reporting capacity, any Eisner employee (or former employee) who was involved in the audit of the Company's financial statements or review of interim financial information in the twelve-month period preceding the filing of your most recent annual report. If it is determined that we are not independent because of the Company's employment of a member of the engagement team, we will not be able to complete any audit (or review of any quarterly filing) in progress, and may not be able to update our auditors' report for any registrations during any period for which we are not deemed independent. If the Company violates this provision, the Company will pay us a fee equivalent to the annual audit engagement fee to reimburse us for audit fees lost and the estimated costs of hiring and training replacement personnel.

We confirm that in our professional judgment we are independent of the Company within the meaning of the Securities Acts administered by the Securities and Exchange Commission, including rules of the Public Company Accounting Oversight Board. We also confirm that there are no relationships between Eisner LLP, and its related entities, and the Company, and its related entities and/or persons in financial reporting oversight roles that in our professional judgment may reasonably be thought to bear on independence.

The regulations under the Securities Acts provide (among other things) that no partner, manager or person working on the engagement may have a direct or material indirect financial interest in a client. To that end, we obtain a declaration from each partner and professional employee, annually, with respect to their independence.

Nothing has come to our attention which, in our professional judgment, would adversely impact our independence.

# Eisner

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If this is in accordance with your understanding, please indicate your acceptance of the above arrangements by signing and returning a copy of this letter to my attention at our office.

Very truly yours,

EISNER LLP

By:  \_\_\_\_\_  
Steven Kreit, Partner

Accepted:

JENNIFER CONVERTIBLES, INC.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Approved:

(Authorized Member of Audit Committee)

By: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT B**

**Eisner Affidavit**

**OLSHAN GRUNDMAN FROME  
ROSENZWEIG & WOLOSKY LLP**

Park Avenue Tower  
65 East 55<sup>th</sup> Street  
New York, New York 10022  
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*Counsel for the Debtors and Debtors in Possession*

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

In re:

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

Chapter 11

Case No. 10-13779 (ALG)

(Jointly Administered)

**AFFIDAVIT IN SUPPORT OF EMPLOYMENT OF EISNER LLP AS A  
PROFESSIONAL UTILIZED IN THE ORDINARY COURSE OF BUSINESS**

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF NEW YORK )

Steven Kreit, being duly sworn, deposes and says:

1. I am a partner at Eisner LLP ("Eisner"), which firm maintains offices at 750 Third Avenue, New York, New York 10017. I submit this affidavit (the "Affidavit") in connection with the application (the "Application")<sup>2</sup> of the debtors and debtors in possession in the above-

<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> Capitalized terms not described herein shall have the meanings ascribed to them in the Application.

captioned cases (collectively, the “Debtors”), for entry of an order pursuant to sections 327(a), 330, 331 and 1107(b) of title 11 of the United States Code (the “Bankruptcy Code”), as supplemented by Rule 2014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Local Rule 2014-1 of the Local Rules for the United States Bankruptcy Court for the Southern District of New York (the “Local Rules”), authorizing the Debtors to retain Eisner as auditors to the Debtors, *nunc pro tunc* to the Petition Date. I have personal knowledge of the matters set forth herein.<sup>3</sup>

2. The debtors and debtors in possession in the above captioned cases (collectively, the “Debtors”) have requested that Eisner provide auditing services to the Debtors, with regard to audits of the Debtors’ consolidated balance sheets and the related consolidated statements of operations, stockholders’ equity and cash flows for each fiscal year. Specifically, the Debtors’ fiscal year ends on August 28, 2010, and they seek to employ Eisner to audit their financial statements for inclusion in their 10-K and ensure compliance with the Sarbanes-Oxley Act of 2002. Eisner has consented to perform such services.

3. Based upon information supplied by Debtors’ counsel, Eisner searched its client database to identify any connection or relationship between Eisner and the Debtors. Eisner did not identify any such connections.

4. To the best of my knowledge, and based on the results of the conflicts check, Eisner is a “disinterested person” within the meaning of section 101(14) of the Bankruptcy Code (as supplemented by section 1107(b) of the Bankruptcy Code), in that, except as otherwise set forth herein, Eisner and its professionals:

a. are not creditors, equity security holders or insiders of the Debtors

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<sup>3</sup> Certain of the disclosures herein relate to matters within the knowledge of other professionals at Eisner.

- b. are not and were not, within 2 years before the date of the filing of the petition, a director, officer, or employee of the Debtors; and
- c. do not have an interest materially adverse to the interest of the estate or of any class of creditors or equity security holders, by reason of any direct or indirect relationship to, connection with, or interest in, the Debtors, or for any other reason.

5. The Debtors do not owe Eisner any monies for prepetition services performed.

6. As of the Petition Date, Eisner was party to an engagement letter with the Debtors, dated June 2, 2010 (the "Engagement Letter"). A copy of the Engagement Letter is attached as Exhibit A to the Application. Pursuant to the terms of the Engagement Letter, Eisner estimates that fees for the audit of the Debtors financial statements will be approximately \$255,000 annually, including out-of-pocket costs and \$12,500 per quarter for interim reviews, all as set forth in greater detail in the Engagement Letter. As such, the Debtors submit that a cap in the amount of \$255,000 (the "Fee Cap") be imposed, and to the extent that fees payable to Eisner exceed the Fee Cap, such fees will be subject to prior approval of the Court in accordance with section 330 of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules; provided, however, Eisner will be entitled to payment up to the Fee Cap as a credit against the fee and disbursements ultimately allowed by the Court.

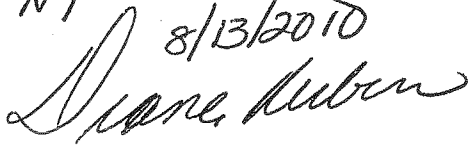
7. Except as may otherwise be disclosed herein, neither I, Eisner, nor any member or associate thereof, insofar as I have been able to ascertain and subject to disclosures herein, holds or represents any interest adverse to the Debtors or their estates. Except as may otherwise be disclosed herein, I believe Eisner is a "disinterested person" as that term is defined in section 101(14), and as modified by section 1107(b), of the Bankruptcy Code.

8. If at any point during these cases Eisner should discover any facts bearing on the matters described herein, Eisner will supplement the information contained in this Affidavit.

I declare under the penalty of perjury that the foregoing is true and correct

Executed on August 13, 2010

By: 

NY  
NY  
8/13/2010  


DIANE RUBIN  
Notary Public, State of New York  
No. 01RU4935889  
Qualified in Queens County  
Commission Expires August 1, 20 14

**EXHIBIT C**

**Proposed Order**

**UNITED STATES BANKRUPTCY COURT  
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 AUTHORIZING DEBTORS TO EMPLOY EISNER LLP (“EISNER”) AS A  
PROFESSIONAL UTILIZED IN THE ORDINARY COURSE OF BUSINESS  
PURSUANT TO BANKRUPTCY CODE SECTIONS 105(a), 327(a) AND 330**

Upon the Application, dated August 13, 2010 (the “Application”)<sup>2</sup> of Jennifer Convertibles, Inc. and its affiliated debtors, as debtors in possession (collectively, the “Debtors”), for entry of an order pursuant to sections 327(a), 330, 331 and 1107(b) of title 11 of the Bankruptcy Code, Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 2014-1 of the Local Rules of the Bankruptcy Court of the Southern District of New York (the “Local Rules”), authorizing the Debtors to retain and employ Eisner LLP (“Eisner”), as auditors, *nunc pro tunc* to the commencement of these chapter 11 cases; and consideration of the Application and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and the Court having jurisdiction to consider the Application 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; and venue being proper before this Court pursuant to 28

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<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.

U.S.C. §§ 1408 and 1409; and due and proper notice of the Application having been provided to the parties listed therein, and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Application (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 Application establish just cause for the relief granted herein; and it appearing that the relief requested in the Application is in the best interests of the Debtors, their estates, creditors, and 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 Application is GRANTED.
2. Pursuant to sections 327(a), 330, 331 and 1107(b) of the Bankruptcy Code, the Debtors hereby are authorized to retain Eisner as their auditors in these chapter 11 cases effective as of the Petition Date, in accordance with the terms and conditions set forth in the Application and this Order.
3. Eisner authorized to perform the services set forth in the Application.
4. The Debtors are authorized to make payments to Eisner for compensation and reimbursement of expenses as set out in the Engagement Letter and the Application and in the manner customarily made by the Debtors; provided however that fees paid to Eisner shall not exceed the Fee Cap.
5. To the extent fees payable to Eisner exceed the Fee Cap, such fees shall be subject to prior approval of the Court in accordance with section 330 of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules; provided however that Eisner shall be entitled to

payment up to the Fee Cap as a credit against the fees and disbursements ultimately allowed by the Court.

6. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

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

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

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UNITED STATES BANKRUPTCY JUDGE