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Proposed Counsel to the Debtors

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

In re:

JENNIFER CONVERTIBLES, INC.,¹

Debtors.

Chapter 11

Case No. 10-13779 (ALG)

(Motion for Joint Administration Pending)

**APPLICATION OF THE DEBTORS PURSUANT TO SECTIONS 105, 327(a) AND 328(a)
OF THE BANKRUPTCY CODE FOR AUTHORIZATION TO EMPLOY AND RETAIN
TM CAPITAL CORP. AS FINANCIAL ADVISORS TO THE DEBTORS**

Jennifer Convertibles, Inc. (“Jennifer Convertibles”) and its affiliated debtors, as debtors in possession (together, the “Debtors”), hereby move this Court for entry of an order authorizing the employment of TM Capital Corp. (“TM Capital”) as financial advisors *nunc pro tunc* to the Petition Date (the “Application”). The facts and circumstances supporting this Application are set forth in the concurrently filed Declaration of Robert C. Grien (the “Grien Declaration”), a copy of which is attached hereto as Exhibit B. In support of this Application, 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. No trustee, examiner or statutory creditors’ committee has been appointed in these chapter 11 cases.
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. In order to generate sales, the Debtors rely on aggressive pricing, the attractive image of its stores, extensive advertising and prompt delivery. Operations are classified into two operating segments organized by retail concept: Jennifer and Ashley. The Jennifer segment operates the sofabed specialty retail store concept. The Ashley segment is the big box, full line home furniture retail store concept. There are no inter-company sales between segments. The Ashley segment is highly profitable due to its unique sourcing model, whereby once most sales are executed, Ashley’s supplier manages the supply chain process. Under the Ashley sourcing model, the Debtors need for warehouse inventory is reduced, thereby limiting working capital needs and infrastructure requirements. The Debtors’ two operating segments enable the Debtors to more effectively offer diverse home furnishings and accessories and expand to a broader consumer base.

4. As of the Petition Date, the Debtors' stores include 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.

5. As of the Petition Date, the Debtors employ 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.

6. For the fiscal year ended August 29, 2009, the Debtors' consolidated financial statements showed revenues from continuing operations of approximately \$94,177,000, compared with \$120,131,000 for the fiscal year ended August 30, 2008, and \$132,683,000 for the fiscal year ended August 25, 2007. For the thirty-nine weeks ended May 29, 2010, revenues from continuing operations were approximately \$70,036,000, with \$56,144,000 coming from the Jennifer segment stores, and \$13,892,000 from the Ashley segment stores.

7. Net sales from continuing operations were \$88,845,000 and \$113,073,000 for the fiscal years ended August 29, 2009 and August 30, 2008, respectively. Net sales from continuing operations decreased by 21.4%, or \$24,228,000 for the fiscal year ended August 29, 2009 compared to the fiscal year ended August 30, 2008. The decrease in net sales is attributable to a decline in overall demand within the furniture industry sector due to a poor housing market and an overall weak U.S. economy. Consolidated same store sales from continuing operations (sales at those stores open for the entire current and prior comparable periods) decreased 19.6% for the thirteen weeks ended May 29, 2010, compared to the same period ended May 30, 2009.

8. Specifically, in the Ashley segment, net sales from continuing operations were \$5,106,000 and \$3,363,000 for the thirteen-week periods ended May 29, 2010 and May 30,

2009, respectively. Net sales from continuing operations increased by 51.8%, or \$1,743,000 for the thirteen-week period ended May 29, 2010 compared to the thirteen-week period ended May 30, 2009. The increase is largely attributable to four new Ashley locations open during the thirteen-week period ended May 29, 2010, that were not open during the same thirteen week period last year, as well as positive results of increased promotional efforts.

9. In the Jennifer segment, net sales from continuing operations were \$16,375,000 and \$16,987,000 for the thirteen-week periods ended May 29, 2010 and May 30, 2009, respectively. Net sales from continuing operations decreased by 3.6%, or \$612,000 for the thirteen-week period ended May 29, 2010 compared to the thirteen-week period ended May 30, 2009. The decrease is attributable to the decline in overall demand within the furniture industry sector due to the prevailing conditions of the U.S. economy, store closings, and delays in receipt of merchandise from our Chinese supplier, all as discussed in greater detail in the other first day motions, filed concurrently herewith.

10. 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 contemporaneously with this Motion and incorporated herein by reference.

Jurisdiction

11. 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.

12. The statutory predicates for the relief requested herein are sections 105, 327(a) and 328(a) of title 11 of the United States Code (the "Bankruptcy Code"), and Rule 2014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

Relief Requested

13. By this Application, the Debtors seek approval to employ and retain TM Capital as their financial advisors in connection with the commencement of their chapter 11 cases, *nunc pro tunc* to the Petition Date, and pursuant to sections 105 and 327(a), and 328(a) of the Bankruptcy Code and Bankruptcy Rule 2014. The Debtors request that TM Capital be retained under the terms and conditions provided for in the engagement letter between TM Capital and the Debtors dated May 19, 2010 (the “Engagement Letter”), attached hereto as Exhibit A and incorporated herein by reference.

Basis For Relief

14. Before the Petition Date, the Debtors experienced, and continue to experience, financial difficulties that culminated in the filing of these chapter 11 cases. The Debtors have determined, in the exercise of their business judgment, that the size of their business operations, and the complexity of the financial difficulties attendant upon operations of such scope, require the services of experienced financial advisors to assist them in restructuring the business and developing, negotiating, and confirming plans of reorganization.

15. The Debtors operate a large, complex enterprise, principally engaged in the operation and management of retail furniture stores.

16. The Debtors wish to employ and retain TM Capital to perform the necessary services described hereinafter as financial advisors pursuant to sections 105, 327 and 328 of the Bankruptcy Code. TM Capital is prepared to provide immediate assistance to the Debtors. The Debtors have selected TM Capital because of TM Capital’s experience at a national level in matters of this character, and its exemplary qualifications to perform the services required in this case, and its knowledge of the Debtors’ business and operations based on the work it has

performed for the Debtors over the past twelve months. The retention and employment of TM Capital is in the best interests of creditors and the best interest of the estates.

17. TM Capital is well qualified to serve as financial advisors to the Debtors. TM Capital specializes in assisting and advising debtors, creditors, investors and court-appointed officials in bankruptcy proceedings. Its services have included assistance in developing/analyzing and evaluating, negotiating and confirming plans of reorganization, and testifying about debt restructuring, feasibility and other relevant issues. TM Capital has been retained in a number of nationally prominent bankruptcy proceedings. TM Capital's qualifications, including a description of its approach in providing services are more fully set out in the Grien Declaration.

18. Pursuant to an engagement letter dated March 6, 2009, TM Capital was retained by the Debtors to assist in reviewing strategic and financial alternatives. The March 6, 2009 engagement letter was superseded by a new engagement letter, dated May 19, 2010, pursuant to which the Debtors again engaged TM Capital to review the Debtors' financial and strategic alternatives, including (i) the potential restructuring of the Debtors' obligations and/or indebtedness, (ii) the arrangement of financing for the Debtors, and/or (iii) the potential sale of the Debtors. TM Capital has provided such services from the date of its engagement up to immediately prior to the Petition Date.

Scope of Services

19. TM Capital has agreed to provide assistance to the Debtors in accordance with the terms and conditions which are set forth in the Grien Declaration and in the Engagement Letter.

20. All the services that TM Capital will provide the Debtors will be (i) at the request of the Debtors, and (ii) appropriately directed by the Debtors so as to avoid duplicative efforts

among the professionals retained in the case. It is presently anticipated that TM Capital will provide the following services:

- (a) Advise and assist management in organizing the Debtors' resources and activities so as to effectively and efficiently plan, coordinate and manage the chapter 11 process and communicate with customers, lenders, suppliers, employees, shareholders and other parties in interest;
- (b) Assist management in designing and implementing programs to manage or divest assets, improve operations, reduce costs and restructure as necessary with the objective of rehabilitating the business;
- (c) Advise the Debtors concerning interfacing with Official Committees, other constituencies and their professionals, including the preparation of financial and operating information required by such parties and/or the Bankruptcy Court;
- (d) Advise and assist management in the development of a Plan of Reorganization and underlying Business Plan, including the related assumptions and rationale, along with other information to be included in the Disclosure Statement;
- (e) Advise and assist the Debtors in forecasting, planning, controlling and other aspects of managing cash, and, if necessary, obtaining DIP financing;
- (f) Advise the Debtors with respect to resolving disputes and otherwise managing the claims process;
- (g) Advise and assist the Debtors in negotiating a Plan of Reorganization with the various creditors and other constituencies;
- (h) As requested, render expert testimony concerning the feasibility of a Plan of Reorganization and other matters that may arise in the case; and
- (i) Provide such other services as may be required by the Debtors.

TM Capital's Disinterestedness

21. To the best of the Debtors' knowledge, information and belief, TM Capital is not related to or connected with and neither holds nor represents any interest adverse to the Debtors, their estates, creditors or any other party in interest herein, or its respective attorneys or the United States Trustee or anyone employed in the Office of the United States Trustee in the matter for which TM Capital is proposed to be retained, except that TM Capital is connected with the Debtors by virtue of this engagement, and TM Capital may represent or have

represented certain of the Debtors' creditors or other parties in interest herein, or interests adverse to such creditors or other parties in interest herein, in matters unrelated to these chapter 11 cases. Consequently, TM Capital is a "disinterested person," as that term is defined in section 101(14) of the Bankruptcy Code and as required by section 327(a) of the Bankruptcy Code. The Grien Declaration, executed on behalf of TM Capital in accordance with section 327(a) of the Bankruptcy Code and Bankruptcy Rule 2014, is attached hereto and incorporated herein by reference. The Debtors' knowledge, information, and belief regarding the matters set forth in this paragraph are based, and made in reliance, upon said declaration. TM Capital informed the Debtors that it has undertaken a detailed search of available information as set forth below, to determine and to disclose, whether it is performing or has performed services for any significant creditors, equity security holders, or insiders in such unrelated matters.

22. In connection with its proposed retention by the Debtors in this case, TM Capital conducted a thorough review of its client relationships to determine whether it had any relationships with any interested party.

23. It should be understood that TM Capital's current or former clients and their affiliates, officers, directors, principal shareholders and their respective affiliates may have had relationships with parties in interest in these bankruptcy cases of which TM Capital was not informed or, subsequent to the performance of TM Capital's services, may have developed relationships with such parties of which TM Capital is unaware.

24. To the best of TM Capital's knowledge and belief, except as set forth in the Grien Declaration, none of TM Capital's current or former clients (including their affiliates, officers, directors, principal shareholders and their respective affiliates) is connected to the entities listed below, other parties in interest herein or interests adverse to such parties:

- (a) the Debtors and their affiliates;
- (b) the Debtors' current and former officers and directors;
- (c) the 30 largest unsecured creditors of the Debtors;
- (d) members of the Debtors;
- (e) banks;
- (f) insurance carriers;
- (g) other professionals;
- (h) significant landlords of the Debtors;
- (i) Judges of the United States Bankruptcy Court for the Southern District of New York; and
- (j) Office of the United States Trustee.

25. TM Capital has indicated that it will promptly update the Grien Declaration, disclosing any material developments regarding the Debtors or any other pertinent relationships that require disclosure in the above-referenced case, if and when such developments or relationships come to TM Capital's attention.

Terms of Retention

26. In consideration of the services to be performed by TM Capital, the Debtors agreed to pay TM Capital non-refundable monthly fees of \$25,000 per month with the first installment due as of May 15, 2010 and each subsequent installment payable on the 15th day of each subsequent month. The Debtors further agreed to pay TM Capital an additional \$75,000 upon execution of the Engagement Letter as a deposit. TM Capital's decision to accept this engagement to advise and assist the Debtors is contingent upon its ability to be retained in accordance with its customary terms and conditions of employment and compensated for its services and reimbursed for the out-of-pocket expenses it incurs in accordance with its

customary billing practices, which are outlined in the attached Grien Declaration filed in support of this Application.

27. In addition, the Debtors will pay a fee of \$500,000 (the “Transaction Fee”) to TM Capital upon consummation of a successful restructuring of the Debtors’ business. The Transaction Fee will be payable regardless of whether the restructuring is consummated through a bankruptcy reorganization, consensual arrangement with creditors, or otherwise.

28. The Debtors and TM Capital believe that the overall compensation structure described above is consistent with normal and customary billing practices for cases of this size and complexity.

29. Section 328(a) of the Bankruptcy Code permits the court to approve the terms of TM Capital’s engagement as set forth in the Engagement Letter (as modified by the proposed order attached hereto). Section 328 of the Bankruptcy Code permits the compensation of professionals, including financial advisors, on more flexible terms that reflect the nature of their services and market conditions. As the United States Court of Appeals for the Fifth Circuit recognized in In re National Gypsum Company, 123 F.3d 861 (5th Cir. 1997):

Prior to 1978, the most able professionals were often unwilling to work for bankruptcy estates where their compensation would be subject to the uncertainties of what a judge thought the work was worth after it had been done. The uncertainty continues under the present § 330 of the Bankruptcy Code, which provided that the court award to professional consultants reasonable compensation based on relevant factors of time and comparable costs, etc. Under present § 328, the professionals may avoid that uncertainty by obtaining court approval of compensation agreed to with the trustee (or debtor or committee).

Id. at 862 (citations omitted).

30. Owing to this inherent uncertainty, courts have approved arrangements similar to the fee structure herein under section 328 of the bankruptcy Code, where such arrangements

constitute “reasonable” terms and conditions. The proposed fee structure appropriately reflects the nature and scope of services to be provided by TM Capital and TM Capital’s substantial experience with respect to financial advisory services, and is consistent with the fee structures typically utilized by TM Capital and other financial advisors.

Reservation of Rights

31. Nothing contained herein is intended or shall be construed as (i) an admission as to the validity of any claim against the Debtors, (ii) a waiver of the Debtors’ or any party in interest’s rights to dispute any claim, or (iii) an approval or assumption of any agreement, contract, program, policy or lease under section 365 of the Bankruptcy Code. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court’s Order is not intended and should not be construed as an admission to the validity of any claim or a waiver of the Debtors’ rights to dispute such claim subsequently. Finally, the relief requested herein shall not oblige the Debtors to accept any services, to accept the shipment of goods, or prevent the Debtors from returning or rejecting goods.

Notice

32. No trustee, examiner or statutory creditors’ committee has been appointed in these chapter 11 cases. Notice of this Motion 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’ estate (on a consolidated basis); (iii) counsel to Haining Mengnu Group Co. Ltd.; (iv) the SEC; (v) the IRS; (vi) all taxing authorities in relevant jurisdictions; (vii) all attorneys general in relevant jurisdictions; and (viii) any other party directly affected by this Motion. The Debtors submit that such notice is sufficient under the circumstances.

No Previous Request

33. 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: July 19, 2010
New York, New York

By: /s Michael S. Fox
Michael S. Fox
Andrea Fischer
Jordanna L. Nadritch
Park Avenue Tower
65 East 55th Street
New York, New York 10022
(212) 451-2300

*Proposed Attorneys for the Debtors and
Debtors in Possession*

Exhibit A
Engagement Letter



Investment & Merchant Bankers

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PERSONAL & CONFIDENTIAL

May 19, 2010

The Board of Directors
Jennifer Convertibles, Inc.
417 Crossways Park Drive
Woodbury, NY 11797

Gentlemen:

We are pleased to submit this letter which sets forth the terms and conditions whereunder TM Capital Corp. ("TM Capital") agrees to serve as exclusive financial advisor to Jennifer Convertibles, Inc. and its subsidiaries (collectively, the "Company") in reviewing the Company's financial and strategic alternatives, including (i) the potential restructuring of the Company's obligations and/or indebtedness, (ii) the arrangement of financing for the Company, and/or (iii) the potential sale of the Company. In its capacity as financial advisor, TM Capital will provide such services as the Company may request, which may include, among others, assistance in analyzing the Company's financial condition and business plan, preparing descriptive materials regarding the Company, analyzing financial restructuring alternatives, assistance in discussions with counterparties to the Company's existing obligations, contacting potential sources of financing, contacting prospective acquirors of the Company, assistance in conducting negotiations with third parties, and assistance in facilitating the consummation of potential transactions.

In consideration of the services to be performed by TM Capital hereunder, the Company agrees to pay TM Capital non-refundable cash retainer fees (the "Retainer Fees") of \$25,000 per month with the first installment due as of May 15, 2010 and each subsequent installment payable on the 15th day of each subsequent month. The Company also agrees to pay TM Capital an additional \$75,000 upon execution of this agreement as a deposit (the "Deposit"). The Deposit shall be credited against the Transaction Fee (as defined below). All amounts due TM Capital hereunder shall be paid by the Company promptly as due via wire transfer.

In the event that the Company completes a financing or strategic transaction (the "Transaction"), including (i) a restructuring, recapitalization or reorganization of the Company's obligations and/or indebtedness, including any material modification of the principal amount or terms of any obligations or the conversion of obligations into alternative obligations or equity; (ii) the confirmation of a plan of reorganization for the Company pursuant to the federal bankruptcy code; (iii) the arrangement of debt, equity or other financing; or (iv) the sale of the business, assets, or equity securities of the Company or a substantial portion thereof, or other similar transaction or combination thereof, the Company agrees to pay TM Capital in cash at closing a fee (the "Transaction Fee") of \$500,000. The Transaction Fee shall be payable regardless of whether the Transaction is consummated through a bankruptcy reorganization, consensual arrangement with creditors, or otherwise. If a voluntary or involuntary filing (the "Filing") is made for protection of the Company from its creditors pursuant to the federal bankruptcy code, the Company agrees to file a motion pursuant to its first-day filings seeking an order (the "Order") to retain TM Capital pursuant to the terms of this agreement.

The Company will also reimburse TM Capital for all reasonable out-of-pocket expenses, including legal fees, incurred in connection with this agreement; such expenses not to exceed \$10,000 without prior notification. In addition, the Company agrees to pay TM Capital for preparation, deposition or appearance as a witness in any proceeding in connection with this agreement. Such payment will be at TM Capital's then effective rates per professional man-hour, plus reasonable out of pocket expenses, including reasonable legal fees.

For purposes of this agreement, a Transaction shall not include a liquidation under Chapter 7 of the federal bankruptcy code

This agreement may be terminated upon written notice by either party at any time without liability except for (i) any compensation earned or expenses incurred by TM Capital prior to termination of this agreement; and (ii) any reimbursement, indemnity or contribution liability of the Company pursuant to the following paragraph. The Deposit shall be refunded to the Company upon termination less any amounts due TM Capital; provided, however, that if the Company undertakes the Filing and does not promptly obtain the Order on terms substantially identical with those provided herein, TM Capital shall retain the Deposit. Notwithstanding anything contained in the preceding sentence, should a Transaction be completed within 12 months of such termination, the Company shall pay TM Capital its full Transaction Fee.

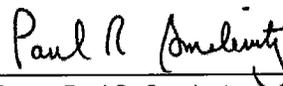
In the event that TM Capital becomes involved in any capacity in any action, proceeding or investigation in connection with any matter referred to in this agreement, the Company will reimburse TM Capital for its reasonable legal and other expenses (including the reasonable cost of any investigation and preparation) incurred in connection therewith. Such legal expenses will specifically include those incurred by TM Capital in any action between TM Capital and the Company relating to this agreement, provided that such action is not finally adjudicated in favor of the Company. The Company will also indemnify and hold TM Capital harmless against any losses, claims, damages or liabilities to which TM Capital may become subject in connection with any matter referred to in this agreement, except to the extent that any such loss, claim, damage or liability results from the gross negligence or willful misconduct of TM Capital in performing the services which are the subject of this agreement. If for any reason the foregoing indemnification is unavailable to TM Capital or insufficient to hold it harmless, then the Company shall contribute to the amount paid or payable by TM Capital as a result of such loss, claim, damage or liability in such proportion as is appropriate to reflect not only the relative benefits received by the Company on the one hand and TM Capital on the other hand, but also the relative fault of the Company and TM Capital as well as any relevant equitable considerations. The reimbursement, indemnity and contribution obligations of the Company under this paragraph shall be in addition to any liability which the Company may otherwise have, shall extend upon the same terms and conditions to the employees and controlling persons of TM Capital and shall be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the Company, TM Capital and any such person. The foregoing provisions shall survive any termination of the authorization provided by this agreement.

This letter will supersede any previous agreements between TM Capital and the Company including the engagement letter dated March 6, 2009.

Please confirm that the foregoing is in accordance with your understanding by signing and returning to us this letter, which shall thereupon constitute a binding agreement.

Sincerely yours,

TM CAPITAL CORP.



By: Paul R. Smolevitz
Managing Director

Confirmed:

JENNIFER CONVERTIBLES, INC.

By:



Harley J. Greenfield
Chairman of the Board of Directors

Date:

6.3.10

Exhibit B

Grien Declaration

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

In re:

JENNIFER CONVERTIBLES, INC.,¹
Debtors.

Chapter 11

Case No. 10-13779 (ALG)

(Motion for Joint Administration Pending)

**DECLARATION AND DISCLOSURE STATEMENT ON BEHALF OF TM CAPITAL
CORP. PURSUANT TO SECTIONS 105 AND 328(a) OF THE BANKRUPTCY CODE
AND FEDERAL RULES OF BANKRUPTCY PROCEDURE 2014(a) AND 2016(b)**

Robert C. Grien makes this declaration under 28 U.S.C. § 1746, and states:

1. I am a Managing Director of TM Capital Corp. (“TM Capital”), an independent investment and merchant banking firm which maintains offices located at 641 Lexington Avenue, 30th Floor, New York NY 10022. The information included in this amended declaration (the “Declaration”) concerning TM Capital is based upon my personal knowledge.

2. This Declaration is being submitted in connection with the proposed retention of TM Capital as financial advisors to the Debtors to perform services as set forth hereinafter.

3. To the best of my knowledge and belief, insofar as I have been able to ascertain after due inquiry, one of the employees of TM Capital is related to Jennifer Convertibles, Inc. or any of its subsidiaries, debtors and debtors in possession (the “Debtors”), their creditors, other parties in interest herein, or the United States Trustee or anyone employed in the Office of the United States Trustee, or holds or represents any interest adverse to any such party, except that

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).

TM Capital is connected with the Debtors by virtue of this engagement, and TM Capital may represent or have represented certain of the Debtors' creditors or other parties in interest herein, or interests adverse to such creditors or other parties in interest herein, in matters unrelated to these cases.

4. In connection with the preparation of this Declaration, TM Capital conducted a thorough review of its client relationships to determine whether it had any relationships with any interested party.

5. It should be understood that TM Capital's present or former clients and their affiliates, officers, directors, principal shareholders and their respective affiliates may have had relationships with parties in interest in these bankruptcy cases of which TM Capital was not informed or, subsequent to the performance of TM Capital's services, may have developed relationships with such parties of which TM Capital is unaware.

6. To the best of TM Capital's knowledge and belief, none of TM Capital's current or former clients (including their affiliates, officers, directors, principal shareholders and their respective affiliates) is connected to the entities listed below, other parties in interest herein or interests adverse to such parties:

- (a) the Debtors and their affiliates;
- (b) the Debtors' current and former officers and directors;
- (c) the 30 largest unsecured creditors of the Debtors;
- (d) members of the Debtors;
- (e) banks;
- (f) insurance carriers;
- (g) other professionals;
- (h) significant landlords of the Debtors;

- (i) Judges of the United States Bankruptcy Court for the Southern District of New York; and
- (j) Office of the United States Trustee.

7. Pursuant to an engagement letter dated March 6, 2009, TM Capital was retained by the Debtors to assist in reviewing strategic and financial alternatives. The March 6, 2009 engagement letter was superseded by a new engagement letter, dated May 19, 2010, pursuant to which the Debtors again engaged TM Capital to review the Debtors' financial and strategic alternatives, including (i) the potential restructuring of the Debtors' obligations and/or indebtedness, (ii) the arrangement of financing for the Debtors, and/or (iii) the potential sale of the Debtors. TM Capital has provided such services from the date of its engagement up to immediately prior to the Petition Date.

8. The Debtors operate a large, complex enterprise, principally engaged in the operation and management of retail furniture stores. Accordingly, the Debtors require the services of experienced financial advisors to assist them in restructuring the business and developing, negotiating and confirming Plans of Reorganization. Because of TM Capital's expertise and experience at a national level in providing restructuring, financial advisory and a broad range of consulting services to the Debtors and other parties in interest in financially complex troubled situations, the Debtors have requested that TM Capital provide such services to them.

9. TM Capital has agreed to provide assistance to the Debtors in accordance with the terms and conditions set forth herein, in the Debtors' Application to retain TM Capital, and in the Engagement Letter which is attached thereto as Exhibit A and incorporated herein by reference. Accordingly, I make this Declaration in support of entry of an order authorizing such retention.

10. All the services TM Capital will provide to the Debtors will be (i) at the request of the Debtors, and (ii) appropriately directed by the Debtors so as to avoid duplicative efforts among the professionals retained in the case. It is presently anticipated that TM Capital will provide the following services:

- (a) Advise and assist management in organizing the Debtors' resources and activities so as to effectively and efficiently plan, coordinate and manage the chapter 11 process and communicate with customers, lenders, suppliers, employees, shareholders and other parties in interest;
- (b) Assist management in designing and implementing programs to manage or divest assets, improve operations, reduce costs and restructure as necessary with the objective of rehabilitating the business;
- (c) Advise the Debtors concerning interfacing with Official Committees, other constituencies and their professionals, including the preparation of financial and operating information required by such parties and/or the Bankruptcy Court;
- (d) Advise and assist management in the development of a Plan of Reorganization and underlying Business Plan, including the related assumptions and rationale, along with other information to be included in the Disclosure Statement;
- (e) Advise and assist the Debtors in forecasting, planning, controlling and other aspects of managing cash, and, if necessary, obtaining DIP financing;
- (f) Advise the Debtors with respect to resolving disputes and otherwise managing the claims process;
- (g) Advise and assist the Debtors in negotiating a Plan of Reorganization with the various creditors and other constituencies;
- (h) As requested, render expert testimony concerning the feasibility of a Plan of Reorganization and other matters that may arise in the case; and
- (i) Provide such other services as may be required by the Debtors.

11. In consideration of the services to be performed by TM Capital, the Debtors have agreed to pay TM Capital non-refundable monthly fees of \$25,000 per month with the first installment due as of May 15, 2010 and each subsequent installment payable on the 15th day of each subsequent month. The Debtors further agreed to pay TM Capital an additional \$75,000 upon execution of the Engagement Letter as a deposit.

12. In addition, the Debtors will pay a fee of \$500,000 (the “Transaction Fee”) to TM Capital upon consummation of a successful restructuring of the Debtors’ business. The Transaction Fee will be payable regardless of whether the restructuring is consummated through a bankruptcy reorganization, consensual arrangement with creditors, or otherwise.

13. The engagement letter also provides for reimbursement of out-of-pocket expenses and customary indemnification. The Debtors and TM Capital believe that the overall compensation structure described above is consistent with normal and customary billing practices for cases of this size and complexity.

Qualifications

14. Founded in 1989, TM Capital is a nationally-recognized investment banking/financial advisory firm based in New York, Boston and Atlanta. TM Capital provides investment banking and financial advisory services and execution capabilities in a variety of areas, including mergers, sales of public and private companies, divestitures of subsidiaries and divisions, acquisitions and buyouts of businesses, arranging debt and equity financing, and financial restructuring. TM Capital has completed over two hundred (200) mergers, acquisitions, and financings for its clients totaling over \$11 billion value. TM Capital has served as an investment banker and/or financial advisor in many large and complex restructuring matters in the United States. Through its roles in these and other restructuring engagements, TM Capital has developed considerable expertise in many of the issues that will be presented in this engagement. In addition, TM Capital has deep knowledge and experience in the retail sector, having completed many transactions on behalf of clients who market goods to consumers through retail locations.

15. The Debtors have selected TM Capital for the purpose of serving as their Bankruptcy Consultant and Special Financial Advisor because of TM Capital's diverse

experience, knowledge and reputation in the financial advisory and investment banking fields, its familiarity with the facts and circumstances of the Debtors' financial history and business operations, and because the Debtors believe that TM Capital possesses the resources and is well qualified to provide the financial advisory services that will be required here. TM Capital is willing to assist the Debtors and to perform the services described in the Engagement Letter, subject to the Court's approval.

16. TM Capital reserves the right to seek court approval for additional compensation in circumstances where extraordinary results may warrant such additional compensation. TM Capital further reserves the right, subject to court approval, to receive payment for compensation awarded in a form other than cash.

17. TM Capital charges its clients only for reasonably incurred, out-of-pocket expenses associated with an assignment including, but not limited to, costs of reproduction, typing, our legal counsel, any applicable state sales or excise taxes and other direct or allocated expenses. Except as necessary to comply with an applicable Administrative Order, all such expense billings are in accordance with TM Capital's customary practices.

18. TM Capital maintains records of out-of-pocket expenses incurred in support of its billings. All such records are located in TM Capital's offices and are available for inspection, subject to certain matters contained therein that may be privileged

19. Invoices for services rendered and out-of-pocket expenses incurred during each month will be submitted to the Debtors no later than twenty days after the end of the month with copies to the U.S. Trustee and the chair of each Official Committee.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

/s/ Robert C. Grien _____
Robert C. Grien
Managing Director

Exhibit C

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)

(Motion for Joint Administration Pending)

**ORDER GRANTING THE APPLICATION OF THE DEBTORS PURSUANT TO
SECTIONS 105, 327 AND 328 OF THE BANKRUPTCY CODE FOR AUTHORIZATION
TO EMPLOY AND RETAIN TM CAPITAL CORP AS FINANCIAL ADVISORS
NUNC PRO TUNC TO THE PETITION DATE**

Upon the application, dated July 19, 2010 (the “Application”)² of Jennifer Convertibles, Inc. and its affiliated debtors, as debtors in possession (collectively, the “Debtors”), for an order authorizing the employment of TM Capital, all as more fully set forth in the Application; and upon consideration of the Declaration of Robert C. Grien; and the Court having jurisdiction to consider the Application and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and consideration of the Application 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 Application 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 Application establish just cause for the relief granted herein; and it appearing that the relief requested in the Application is in the best

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).

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

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 Application is GRANTED.
2. In accordance with sections 105, 327(a), 328(a) of the Bankruptcy Code, the Debtors are hereby authorized to employ and retain TM Capital as their financial advisors in connection with these cases and the Debtors' businesses generally, *nunc pro tunc* to the Petition Date, upon the terms and for the purposes set forth and as requested in the Application and the attached Grien Declaration.
3. TM Capital is hereby authorized to perform the services enumerated in the Application and the Grien Declaration.
4. The Debtors are hereby authorized to pay TM Capital the professional fees, expenses and transaction fee pursuant to the terms set forth in the Motion.
5. Subject to TM Capital's compliance with the Bankruptcy Code, the Bankruptcy Rules and the Local Bankruptcy Rules in applying for allowance of TM Capital's compensation and reimbursement of TM Capital's out-of-pocket expenses, and the approval of the compensation and reimbursement of expenses as met with appropriate legal standards, TM Capital's billing practices, and methods of charging expenses be, and hereby are, approved as enumerated in the Application and in the Grien Declaration.
6. To the extent this Order is inconsistent with the Engagement Letter with respect to the terms and conditions of TM Capital's retention and employment by the Debtors, the terms of this Order shall govern.
7. This Court retains jurisdiction to interpret and enforce this Order.

Dated: July __, 2010
New York, New York

UNITED STATES BANKRUPTCY JUDGE