

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

In re:

JENNIFER CONVERTIBLES, INC., *et al.*<sup>1</sup>

Debtors.

Chapter 11

Case No. 10-13779 (ALG)  
(Jointly Administered)

**ORDER DETERMINING THAT THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS OF JENNIFER CONVERTIBLES, INC., *ET AL.*  
IS NOT REQUIRED TO PROVIDE ACCESS TO CONFIDENTIAL  
OR PRIVILEGED INFORMATION OF THE DEBTORS**

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Upon the motion (the “Motion”)<sup>2</sup> of the Official Committee of Unsecured Creditors (the “Committee”) of Jennifer Convertibles, Inc., *et al.*, the above-captioned debtors and debtors-in-possession (the “Debtors”), for entry of an order pursuant to sections 105(a), 107(b), and 1102(b)(3)(A) of the Bankruptcy Code and Bankruptcy Rule 9018 determining that the Committee is not required to provide access to the Confidential Information or Privileged Information to any creditor of the Debtors who is not a member of the Committee; and it appearing that the relief requested in the Motion is in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and it appearing that this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and notice of the Motion and the opportunity for a hearing on the Motion being appropriate under the circumstances such that no other or further notice need be given; upon the record herein, after due deliberation thereon, good and

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<sup>1</sup> The Debtors in these chapter 11 cases are: (i) Jennifer Convertibles, Inc.; (ii) Jennifer Convertibles Boylston MA, Inc.; (iii) Jennifer Chicago Ltd.; (iv) Elegant Living Management, Ltd.; (v) Hartsdale Convertibles, Inc.; (vi) Jennifer Management III Corp.; (vii) Jennifer Purchasing Corp.; (viii) Jennifer Management II Corp.; (ix) Jennifer Management V Ltd.; (x) Jennifer Convertibles Natick, Inc.; (xi) Nicole Convertibles, Inc.; and (xii) Washington Heights Convertibles, Inc.

<sup>2</sup> Capitalized terms not defined in this order shall have the respective meanings ascribed to them in the Motion.

sufficient cause exists for the granting of the relief as set forth herein, IT IS HEREBY ORDERED THAT:

1. The Committee and its individual members and their respective representatives, agents, advisors, and counsel (each a “Committee Party” and collectively, the “Committee Parties”) are not required to provide access to any Confidential Information concerning the Debtors, including (without limitation) with respect to the acts, conduct, assets, liabilities, and financial condition of the Debtors, the operation of the Debtors’ businesses and the desirability of the continuance of such businesses, or any other matter relevant to these cases or to the formulation of a chapter 11 plan, whether provided by or on behalf of the Debtors or by any third party, to any creditor who is not a member of the Committee.

2. Committee Parties shall not be required, without an order of this Court or consent of the Debtors, to provide access to any Privileged Information concerning the Debtors to any creditor who is not a member of the Committee. The Committee is authorized, but not required, to provide access to Privileged Information to creditors who are not members of the Committee so long as (a) such Privileged Information is not Confidential Information; and (b) the relevant privilege is held and controlled solely by the Committee.

3. If a creditor (the “Requesting Creditor”) submits a written request (including by electronic mail) (the “Information Request”) for the Committee to disclose information, the Committee shall, as soon as practicable, but no more than ten (10) days after receipt of the Information Request, provide a response to the Information Request (the “Response”), including providing access to the information requested or the reasons the Information Request cannot be complied with. If the Response is to deny the Request because the Committee believes the Information Request implicates Confidential Information or

Privileged Information that need not be disclosed pursuant to the terms of this Order or otherwise under 11 U.S.C. §1102(b)(3)(A), or that the Information Request is unduly burdensome, the Requesting Creditor may, after a good faith effort to meet and confer with an authorized representative of the Committee regarding the Information Request and the Response, seek to compel such disclosure for cause pursuant to a motion. The Committee shall not object to any Requesting Creditor's request to participate in any such hearing by telephone conference. Nothing herein shall be deemed to preclude the Requesting Creditor from requesting (or the Committee objecting to such request) that the Committee provide the Requesting Creditor a log or other index of any information specifically responsive to the Requesting Creditor's request that the Committee deems to be Confidential Information of Privileged Information. Furthermore, nothing herein shall be deemed to preclude the Requesting Creditor from requesting that the Court conduct an *in camera* review of any information specifically responsive to the Requesting Creditor's request that the Committee claims is Confidential Information of Privileged Information.

4. In its response to an Information Request for access to Confidential Information or Privileged Information, the Committee shall consider whether (a) the Requesting Creditor is willing to agree to reasonable confidentiality and trading restrictions with respect to such Confidential Information or Privileged Information and represents that such trading restrictions and any information-screening process complies with applicable securities laws; and (b) under the particular facts, such agreement and any information-screening process that it implements will reasonably protect the confidentiality of such information; provided, however, that if the Committee elects to provide access to Confidential Information or Privileged Information on the basis of such confidentiality and trading restrictions, the Committee shall

have no responsibility for the Requesting Creditor's compliance with, or liability for violation of, applicable securities or other laws. Any disputes with respect to this paragraph shall be resolved as providing in the preceding paragraph, and, to the extent applicable, the next paragraph.

5. If the Information Request implicates Confidential Information of the Debtors (or any other entity) and the Committee agrees that such request should be satisfied, or if the Committee on its own wishes to disclose such Confidential Information to creditors, the Committee may demand (the "Demand") for the benefit of the Debtors' creditors: (a) if Confidential Information is information of the Debtors, by submitting a written request to Olshan Grundman Frome Rosenzweig & Wolosky LLP, counsel for the Debtors, Park Avenue Tower, 65 East 55<sup>th</sup> Street, New York, New York 10022 (Attention: Michael S. Fox, Esq.) ("Debtors' Counsel"), stating that the Committee will disclose such information in the manner described in the Demand unless the Debtors object to such Demand on or before five days after the Debtors' Counsel's receipt of such Demand; and, after the lodging of such an objection, the Committee, Requesting Creditor and the Debtors may schedule a hearing with the Court seeking a ruling with respect to the Demand under section 704(a)(7) of the Bankruptcy Code; and (b) if the Confidential Information is information of another entity, by submitting a request to such entity and its counsel of record, with a copy to Debtors' Counsel, stating that such information will be disclosed in the manner described in the Demand unless such entity objects to such Demand on or before five days after receipt of such Demand; and, after the lodging of such an objection, the Committee, the Requesting Creditor, such entity and the Debtors may schedule a hearing with the Court seeking a ruling with respect to the Demand.

6. None of the Committee Parties shall have or incur any liability to any entity (including the Debtors) for acts taken or omitted to be taken as long as the Committee

Parties have acted in compliance with the Procedures, the Confidentiality Agreement, or any other provisions of this Order; provided, however, that the foregoing shall not preclude or abridge the right of any creditor to move the Court for an order requiring the production of other or further information.

7. Nothing in this Order shall diminish the qualified immunity under applicable law of any Committee Party, or shall require the Committee to provide access to information or solicit comments from any entity that has not demonstrated to the satisfaction of the Committee that it holds claims of the kind described in section 1102(b)(3)(A) of the Bankruptcy Code.

8. Nothing in this Order (a) expands, restricts, affirms, or denies the right or obligation, if any, of the Committee to provide access, or not to provide access, to any information of the Debtors or the Committee to any party except as explicitly provided herein; or (b) requires the Committee to provide access to information or solicit comments from an entity that has not demonstrated to the satisfaction of the Committee, in its sole discretion, or to the Court, that it holds claims of the kind described in section 1102(b)(3) of the Bankruptcy Code.

9. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation of this Order.

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

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THE HONORABLE ALLAN L. GROPPER  
UNITED STATES BANKRUPTCY JUDGE