

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

In re:

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

Debtors.

Chapter 11

Case No. 10-13779 (ALG)

(Jointly Administered)

STIPULATION AND ORDER CONCERNING SETOFF AND COLLATERAL

Upon the Motion,² dated November 16, 2010 of American Express Travel Related Services Company, Inc. (“American Express”), this Stipulation and Order Concerning Setoff and Collateral (this “Stipulation and Order”) is entered into by and between American Express and a certain above-captioned Debtor, Jennifer Convertibles, Inc. (referred to herein as “Debtor”).

WHEREAS, commencing on July 18, 2010 and continuing thereafter (the “Petition Date”), the Debtors filed for relief pursuant to chapter 11 of the Bankruptcy Code (the “Chapter 11 Cases”). Pursuant to an Order of this Court, the Chapter 11 Cases are being jointly administered; and

WHEREAS, prior to the Petition Date, American Express and Debtor entered into certain agreements (the “Agreements”), pursuant to which American Express has issued American Express Corporate Cards and/or other American Express Commercial billing and payment products (including, without limitation, American Express Corporate Purchasing Card accounts and Business Travel Accounts) to Debtor and/or certain of Debtor’s employees who are authorized to incur expenses on Debtor’s behalf (collectively, the “Programs”); and

¹ A list of the Debtors, along with the last four digits of each Debtor’s federal tax identification number, is filed with the Court at Docket No. 6 and available at www.bmcgroup.com.

² All capitalized terms used but not defined herein shall have the meaning ascribed to them in the Motion.

WHEREAS, pursuant to the Agreements, Debtor is liable for all indebtedness, obligations and liabilities (including without limitation, all purchases, cash advances, fees, American Express Travelers Cheque encashments, interest, and delinquency assessments charged to the Programs) in connection with the Agreements (collectively, the “Obligations”); and

WHEREAS, on or about December 9, 2008, Debtor executed a Pledge Agreement (the “Pledge Agreement”), whereby Debtor granted American Express a security interest in a certificate of deposit in the principal amount of \$25,000.00 (the “Certificate of Deposit”) held by American Express Bank, FSB, maintained in the name of American Express and subject to American Express’ sole and exclusive dominion and control; and

WHEREAS, the Pledge Agreement granted American Express a security interest in the Certificate of Deposit to secure the Obligations; and

WHEREAS, Debtor has acknowledged that its outstanding pre-petition liability under the Programs totaled \$15,374.99 (the “Pre-Petition Obligations”), and Debtor’s payment of the Pre-Petition Obligations is secured by the security interest in the Certificate of Deposit; and

WHEREAS, since the Petition Date, American Express has continued to extend credit to Debtor through the Programs, Debtor continues to have use of its American Express Corporate Cards and/or other American Express Commercial billing and payment products, and pursuant to the Agreements, Debtor is obligated to pay American Express for the Pre-Petition Obligations; and

Deleted: . WHEREAS, since the Certificate of Deposit arose prior to the Petition Date and American Express continues to extend credit to Debtor under the Programs post-petition, American Express has requested and Debtor has agreed to permit American Express to continue to hold the Certificate of Deposit with a principal balance of \$9,625.01 (in accordance with the terms of the Pledge Agreement and any amendments thereto) as security for the payment of the Obligations, including those Obligations arising after the Petition Date; and

WHEREAS, the principal balance remaining in the Certificate of Deposit will be \$9,625.01 (the "CD Balance"); and

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WHEREAS, Debtor has requested and American Express has agreed to release and return the CD Balance to Debtor's bankruptcy estate; and

WHEREAS, the parties desire to (a) cure Debtor's Pre-Petition Obligations by allowing American Express to setoff amounts held under the Certificate of Deposit against the Pre-Petition Obligations, and (b) cause a release and return of the CD Balance to Debtor's bankruptcy estate.

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Deleted: reversion interest in the Certificate of Deposit

NOW, THEREFORE, IT IS HEREBY STIPULATED, AGREED AND ORDERED

as follows:

1. American Express is authorized to setoff amounts held under the Certificate of Deposit against the Pre-Petition Obligations.

2. American Express shall release and return the CD Balance to Debtor's bankruptcy estate, in accordance with the terms of the Pledge Agreement and any amendments thereto.

Deleted: continue to hold the Certificate of Deposit with a principal balance of \$9,625.01

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3. The Debtors shall deposit the funds received on account of the CD Balance into an account at an authorized depository for the Southern District of New York.

4. The Bankruptcy Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Stipulation and Order.

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SO STIPULATED AND AGREED:

JENNIFER CONVERTIBLES, INC.

**AMERICAN EXPRESS TRAVEL
RELATED SERVICES COMPANY, INC.**

**BY: OLSHAN GRUNDMAN FROME
ROSENWEIG & WOLOSKY LLP**

BY: FLASTER/GREENBERG P.C.

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Counsel for Debtors

*Counsel for American Express Travel Related
Services Company, Inc.*

Date: ~~January 12, 2011~~

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SO ORDERED this _____ day of _____, ~~2011~~:

THE HONORABLE ALLAN L. GROPPER
UNITED STATES BANKRUPTCY COURT