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

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In re :	:	Chapter 11
	:	
JENNIFER CONVERTIBLES, INC.,	:	Case No. : 10-13779 (ALG)
et al.,	:	
	:	
Debtors.	:	(Jointly Administered)

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**DECLARATION OF PHILIP TOUITOU IN SUPPORT OF 376 BOYLSTON  
STREET REALTY TRUST'S RESPONSE TO DEBTORS' OMNIBUS  
OBJECTION TO CERTAIN DUPLICATE CLAIMS**

PHILIP TOUITOU, pursuant to 28 U.S.C. 1746, declares as follows:

1. I am a partner of Hinshaw & Culbertson LLP, counsel for claimant 376 Boylston Street Realty Trust. I am familiar with the proceedings in this case and the facts set forth in this declaration, and make this declaration in response to Debtors' Omnibus Objection to Certain Duplicate Claims.

2. Jennifer Convertibles, Inc. ("Jennifer Convertibles") and its affiliated debtors, as debtors and debtors-in-possession (referred to hereinafter in the collective, as the "Debtors") filed their Petitions for Relief ("Petition") under Chapter 11 of the United States Bankruptcy Code (the "Code") on July 18, 2010.

3. Upon request of the Debtors that a claims bar date be established, and pursuant to a Motion dated August 31, 2010, this Court entered an Order on September 16, 2010 wherein,

among other things, the Court established October 25, 2010 as the date by which certain creditors, other than non-governmental entities and those landlords whose leases were not yet by then rejected pursuant to §365 of the Code, were required to file their respective Proofs of Claim or be forever barred from receiving a distribution within the Debtors' Chapter 11 case.

4. Despite the Debtors having not rejected the lease for the premises located at 376 Boylston Street, Boston, Massachusetts prior to the Claims Bar Date (and on information and belief having not done so to date), 376 Boylston Street Realty Trust filed its Proof of Claim for amounts due as of the Claims Bar Date on October 25, 2010 (the "Boylston Claim").

5. A review of the Court's Claims Register for this case indicates that the Boylston Claim has been designated as Claim #5 on that Claims Register.

6. Prior to the Claims Bar Date, and pursuant to an Order of this Court, the Debtors employed BMC Group, Inc. ("BMC") to act as the Debtors' claims and noticing agent in these cases.

7. On December 23, 2010, the Debtors filed their *Omnibus Objection Pursuant to 11 U.S.C. §502(b) And Fed. R. Bankr. P. 3007 To Certain Duplicate Claims* ("Debtors' Objection To Claims") wherein the Debtors object to the Boylston Claim as being somehow duplicative.

8. Exhibit "A" to the Debtors' Objection To Claims appears to state or imply that 376 Boylston Street Realty Trust filed two Proofs of Claim in the exact same amount with the initial Proof of Claim being designated as Claim # 314 and the second Proof of Claim being designated as Claim # 315.

9. In their Objection to Claims, the Debtors assert that Claim # 314 and Claim # 315 are either (a) exact duplicates of previously filed claims; (b) substantively duplicative of

previously filed claims; or (c) are claims wherein the claimant asserts a claim for the same liability against more than one of the Debtors.

10. The Debtors base their Objection upon the axiom that creditors are not entitled to multiple recoveries for a single liability against a debtor and, on such grounds assert that Claim # 314 and Claim # 315 are unenforceable against the Debtors and are invalid, and should be disallowed and expunged from the claims register.

11. 376 Boylston Street Realty Trust filed only one Proof of Claim and that claim is designated as Claim # 5 on the Claims Register maintained by this Court.

12. It is conceivable that, subsequent to the employment of BMC to act as the Debtors' claims and noticing agent in these cases, BMC picked up Claim #5 from the Court's Claim Register and did so more than once. Such would explain not only the new/different identification numbers, but their sequential nature and duplicative nature as well. This explanation is supported further by the only differences between Claim # 314 and Claim # 315, i.e. Claim # 314 is 47 pages in length while Claim # 315 is 48 pages in length, with the difference being that it appears that the final two pages of the exhibit to Claim #314 have been replaced by a screenshot of the Court's Claim Register entry for Claim # 5.

13. 376 Boylston Street Realty Trust does not seek multiple recoveries for a single liability.

14. 376 Boylston Street Realty Trust, having timely filed its Proof of Claim, is entitled to have a Proof of Claim, of record, in these jointly administered proceedings that reflects the Proof of Claim filed by 376 Boylston Street Realty Trust on October 25, 2010.

15. As stated on the Boylston Claim, the claim arises out of and in connection with a lease for certain premises, the anticipated rejection of that lease, and certain actions of one or

