

**OLSHAN GRUNDMAN FROME
ROSENZWEIG & WOLOSKY LLP**

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65 East 55th Street
New York, New York 10022
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212.451.2300

*Counsel for the Reorganized Debtors
(Successors to the Debtors and Debtors in Possession)*

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

In re:

JENNIFER CONVERTIBLES, INC.,¹

Debtors.

Chapter 11

Case No. 10-13779 (ALG)

(Jointly Administered)

**DEBTORS' OMNIBUS REPLY TO RESPONSES TO THE DEBTORS'
THIRD OMNIBUS OBJECTION TO CERTAIN PROOFS OF CLAIM**

Jennifer Convertibles, Inc. (“Jennifer Convertibles”) and its affiliated debtors, as debtors and debtors in possession (together, the “Debtors”, now known as the “Reorganized Debtors”), file this reply (the “Reply”) to the responses received with respect to the *Debtors’ Third Omnibus Objection to Certain Proofs of Claim Filed as Priority and Secured Claims that Do Not Correspond to the Debtors’ Books and Records* (docket no. 552) (the “Third Omnibus Objection”). In support of this Reply, 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).

1. Through the Third Omnibus Objection, the Debtors object to the amount and/or the classification of the Claims listed in Exhibits A and B to the Third Omnibus Objection, and seek to reduce, reclassify and expunge such Claims because the Claims do not correspond to the Debtors' books and records as: (i) the amount claimed exceeds the amounts reflected in the Debtors' books and records, (ii) the Claims lack sufficient documentation to ascertain the validity of all parts of the Claims, (iii) the Claims are incorrectly classified as priority or secured Claims, (iv) the Claims have already been paid by the Debtors, (v) the Claim is a tax claim filed for a store lease the Debtors rejected during the course of the chapter 11 cases, and thus no taxes are owed, (vi) the Claim is a shareholder claim, or (vii) the Claim is a late filed claim.

2. The Debtors have received three responses to the relief sought in the Third Omnibus Objection. The Debtors will address the merits of each response in this Reply, and request that this Court expunge such claims as requested in the Third Omnibus Objection.

i. **Georgia Department of Revenue**

3. The Third Omnibus Objection seeks to expunge proof of claim no. 358, consisting of a priority claim in the amount of \$1,932.52 and a general unsecured claim in the amount of \$1,472.93, filed by the Georgia Department of Revenue (the "GDR"). The Debtors believe they are current on their obligations to the GDR, and that the GDR has no valid claims against the Debtors.

4. On May 10, 2011, the GDR filed the *Georgia Department of Revenue's Response to Debtors' Third Omnibus Objection to Certain Proofs of Claim* on the docket (docket no. 569) (the "Georgia Response").

5. The Georgia Response states that a portion of their priority claim is based on the Debtors' late filing of withholding returns to the GDR from 2006-2010. It appears from GDR's proof of claim that the unsecured portion of their claim also arises from penalties assessed. The

Debtors have always paid their withholding returns on a timely basis, and have never been subject to late fees by the GDR in the past. Thus, any claim for late fees is unjustifiable.

6. The Georgia Response further states that a majority of the GDR's priority claim is estimated, as the records of the GDR indicate that the Debtors failed to file the June 2006 sales and use tax return (the "June 2006 Tax"), and until the June 2006 Tax is filed or the necessary information is provided to the GDR, the GDR is unable to determine the actual amount due from the Debtors. Attached hereto as Exhibit A is a copy of the deposited check showing payment to the GDR of the June 2006 Tax. Thus, the Debtors do not owe any additional amounts to the GDR on account of the June 2006 Tax.

7. Therefore, based on the foregoing, the Third Omnibus Objection correctly states there is no money owed to the GDR, and claim no. 358 should be expunged.

ii. **Ohio Department of Taxation**

8. The Third Omnibus Objection seeks to expunge proof of claim nos. 352 and 353, filed by the Ohio Department of Taxation (the "ODT"). Claim no. 352 consists of a priority claim in the amount of \$2,619.35 and a general unsecured claim in the amount of \$341.59. Claim no. 353 consists of a priority claim in the amount of \$5,754.83 and a general unsecured claim in the amount of \$654.36. The Debtors believe they are current on their obligations to the ODT, and thus the ODT does not have a claim against the estate.

9. On May 10, 2011, the ODT filed the *Response of the Ohio Department of Taxation to Debtors' Third Omnibus Objection to Certain Proofs of Claim Filed as Priority and Secured Claims that Do Not Correspond to the Debtors' Books and Records* on the docket (docket no. 570) (the "Ohio Response").

10. The Ohio Response simply states that the Debtors have not met their burden to produce sufficient evidence showing that the ODT proofs of claim should be expunged. The

proofs of claim filed by the ODT indicate that the Debtors owe the ODT based on a field audit assessment. *See* Notices of Assessment received by the Debtors from the ODT, each dated November 22, 2010 and attached hereto as Exhibit B. However, no field audit was ever conducted between the Debtors and the ODT, and the Debtors ceased operations in Ohio as of May 21, 2008, prior to the assessment period end dates of July 31, 2008 and January 31, 2009, respectively. *See* Letters from the Debtors' Accounting Department to the ODT, dated December 13, 2010 and attached hereto as Exhibit C. Because no field audits were ever conducted, there can be no assessment or penalty owed by the Debtors.

11. Therefore, the Debtors do not owe ODT on account of the purported field audits, and the ODT's proofs of claims are improper and should be expunged in accordance with the Third Omnibus Objection.

iii. **Mr. James C. Jackson**

12. The Third Omnibus Objection seeks to expunge proof of claim no. 363, consisting of a priority claim in the amount of \$2,078.47 filed by Mr. James Conlee Jackson, as Mr. Jackson's claim was filed more than two months after the bar date set by the Debtors in these chapter 11 cases. Though not filed on the docket, the Debtors received the *Reponse to Third Omnibus Objection for James Conlee Jackson* on May 1, 2011, a copy of which is attached hereto as Exhibit D (the "Jackson Response").

13. The Jackson Response states that Mr. Jackson was not aware of the Debtors' chapter 11 cases, and thus should not be bound by the bar date. As this court is aware, the Debtors' general bar date was set for October 25, 2010, in accordance with the *Order Establishing Deadline for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof*, entered by this Court on September 16, 2010 (docket no. 247) (the "Bar Date Order"). Paragraph 13 of the Bar Date Order provides that "the Debtors shall publish notice of the Bar

Date . . . in USA Today . . . which publication is hereby approved and shall be deemed good, adequate, and sufficient publication notice of the Bar Date.” Bar Date Order at ¶ 13. On September 27, 2010, the Debtors published notice of the bar date in the national edition of USA Today, as described in the *Notice of Certification of Publication*, filed October 7, 2010 (docket no. 275).

14. Mr. Jackson filed his proof of claim on December 29, 2010, more than two full months after the bar date. While the Debtors understand and are sympathetic to the fact that Mr. Jackson did not become aware of the bar date until well after it had passed, the purpose of the publication requirement is to give notice to all parties who may hold claims which are unknown to the Debtors at that time. *See, e.g., In re Best Products Co., Inc.*, 140 B.R. 353, 358 (Bankr. S.D.N.Y. 1992) (finding publication of the bar date notice was reasonably calculated to apprise unknown creditors of the necessity to file proofs of claim before the deadline, and was therefore sufficient notice under the rules since the claimant was an unknown creditor at the time of the filing of the bankruptcy petition and at the time the order setting the bar date was entered). The Debtors provided such publication in a nationally circulated newspaper, USA Today, in order to give claimants such as Mr. Jackson proper notice. Mr. Jackson took no steps prior to the bar date to make a claim, either directly with the Debtors or with the Debtors’ claims agent.

15. Thus, the Debtors do not owe Mr. Jackson on account of his claim, and the Third Omnibus Objection correctly states that Mr. Jackson’s claim is a late filed claim which should be expunged.

Notice

16. Notice of this Objection has been provided to: (i) Office of the United States Trustee for the Southern District of New York; (ii) Counsel to the Litigation Trust; (iii) Counsel to the GDR; (iv) Counsel to the ODT; (v) Mr. James C. Jackson; and (vi) any other party who

has filed a notice of appearance in these cases. The Debtors submit that such notice is sufficient under the circumstances.

WHEREFORE, the Debtors respectfully request that the Court grant the Debtors' Third Omnibus Objection, and grant such further relief as may be equitable under the circumstances of this case.

Dated: New York, New York
May 13, 2011

OLSHAN GRUNDMAN FROME
ROSENZWEIG & WOLOSKY LLP

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

*Counsel for the Debtors and the
Reorganized Debtors*

EXHIBIT A

ORIGINAL CHECK HAS A COLORED BACKGROUND PRINTED ON CHEMICAL REACTIVE PAPER

<p>Jennifer Convertibles, Inc. 419 Crossways Park Drive Woodbury, NY 11797</p>	<p>JPMorgan JPMorgan Chase Bank Wilmington, DE</p>	<p>82-25 311</p>	<p style="font-size: 24pt; font-weight: bold;">038778</p> <p>AMOUNT</p> <p>*****708.99</p>
<p>PAY Seven hundred eight and 99 / 100 Dollars</p>		<p>DATE</p> <p>7/17/2006</p>	
<p>TO THE ORDER OF</p>	<p>State of Georgia Department of Revenue P.O. Box 105296 Atlanta, GA 30348-5296 USA</p>		
	<p><i>Rani Abuda</i></p> <p>AUTHENTIC SIGNATURE</p>		
<p>READ CHECK NUMBER AND IMAGE THROUGH TO BACK OF SHEET</p>			
<p>⑆038778⑆ ⑆031100267⑆ ⑆301485573509⑆</p>		<p>⑆0000070899⑆</p>	

<p>1615489195 07312006 031000040 PRB-PHILA ENT=3457 TRC=3458 PK=06</p>	<p>SUNTRUST ATL 87282006 ORLANDO, FL 2519-812 M631021524 ⑆10000027⑆</p>	<p>FOR DEPOSIT ONLY FOR DEPOSIT ONLY (USE ONLY ONE)</p>
<p>FOR DEPOSIT ONLY CA DEPT OF REVENUE REV COLL ACCT 872806 PROF 204 000 P 021000040 ⑆031000040⑆ ⑆00000017000016⑆ 060028 209 179 PAID 7/31/06 ⑆031000040⑆ ⑆00000017000016⑆ 00 \$ 708.99 ⑆500472015⑆</p>		

Location	Acct #	Original Acct #	Check #	Original Check #	Amount	Original Amount
CD	6301485573509	6301485573509	38778	38778	\$708.99	\$708.99
Issue Date	Paid Date	Original Paid Date	Sequence	Customer Data	R/T Number	Original R/T Number
	7/31/2006	7/31/2006	0		31100267	31100267
GL Category	CD Valid/CIMS Key	CD Label	Process Control			
	JENN0132000001	JENN0132				

EXHIBIT B



7193 2971 4920 0854 3718

NOTICE OF ASSESSMENT

Compliance Division
P. O. Box 1090
Columbus, OH 43216-1090
Phone: 1-888-297-7150
Fax: 1-614-387-1847
TTY/TDD: 1-800-750-0750
tax.ohio.gov

November 22, 2010

6187620101116 ITAS

JENNIFER CONVERTIBLES, INC.
419 CROSSWAYS PARK DR
WOODBURY, NY 11797-2061

Audit Type: FA
Case Type: 3

Pursuant to Section(s) 5703.261, 5739.12, 5739.13, 5739.132, 5739.133, 5739.15, 5739.33, 5741.11, 5741.12, 5741.13, 5741.14 of the Ohio Revised Code, The Tax Commissioner Hereby Certifies the Following:

Table with columns: TAX, INTEREST, PENALTY, ADDITIONAL CHARGE, ADDITIONAL CHARGE PENALTY. Includes rows for assessment details and a total assessment due of \$2,960.94.

I HEREBY CERTIFY THE FOLLOWING TO BE A TRUE AND CORRECT COPY OF THE ACTION OF THE TAX COMMISSIONER TAKEN THIS DAY WITH RESPECT TO THE ABOVE MATTER.

TAX COMMISSIONER, STATE OF OHIO
ASAT0095

Notice to taxpayers in Bankruptcy: This assessment is a notice of tax deficiency permissible pursuant to 11USC 362(b) (9).

MAKE CHECK PAYABLE TO - TREASURER OF STATE
RETURN THIS PORTION WITH YOUR REMITTANCE AND/OR CORRESPONDENCE PERTAINING TO THIS MATTER

CONSUMER'S USE TAX 410
ASSESSMENT PAYMENT COPY
Amount Owed: \$2,960.94

JENNIFER CONVERTIBLES, INC.
Account #: 97167234
Assessment #: 8100403675
Notice #: 6187620101116

Enter Amount Paid: _____

*****State Use Only*****

Payment Code: PMT ITAS

Payment Date: _____

OTC #: _____

Case #: 332041801A

OHIO DEPARTMENT OF TAXATION
P.O. BOX 1090
COLUMBUS, OH 43216-1090

03541097167234020061001200901319996187620101116000000000000002960946



7193 2971 4920 0854 3220

NOTICE OF ASSESSMENT

Compliance Division
P. O. Box 1090
Columbus, OH 43216-1090
Phone: 1-888-297-7150
Fax: 1-614-387-1847
TTY/TDD: 1-800-750-0750
tax.ohio.gov

November 22, 2010

6187764101116 ITAS

JENNIFER MANAGEMENT III, LTD.
417 CROSSWAYS PARK DR
WOODBURY, NY 11797-2061

Audit Type: FA
Case Type: 3

Pursuant to Section(s) 5703.261, 5739.12, 5739.13, 5739.132, 5739.133, 5739.15, 5739.33, 5741.11, 5741.12, 5741.13, 5741.14 of the Ohio Revised Code, The Tax Commissioner Hereby Certifies the Following:

Table with columns: TAX, INTEREST, PENALTY, ADDITIONAL CHARGE, ADDITIONAL CHARGE PENALTY. Includes rows for assessment details and a total assessment due of \$6,409.19.

I HEREBY CERTIFY THE FOLLOWING TO BE A TRUE AND CORRECT COPY OF THE ACTION OF THE TAX COMMISSIONER TAKEN THIS DAY WITH RESPECT TO THE ABOVE MATTER.

TAX COMMISSIONER, STATE OF OHIO
ASAT0095

Notice to taxpayers in Bankruptcy: This assessment is a notice of tax deficiency permissible pursuant to 11USC 362(b) (9).

MAKE CHECK PAYABLE TO - TREASURER OF STATE
RETURN THIS PORTION WITH YOUR REMITTANCE AND/OR CORRESPONDENCE PERTAINING TO THIS MATTER

CONSUMER'S USE TAX 410
ASSESSMENT PAYMENT COPY

Amount Owed: \$6,409.19

JENNIFER MANAGEMENT III, LTD.
Account #: 97183057
Assessment #: 8100403676
Notice #: 6187764101116

Enter Amount Paid: _____

*****State Use Only*****

Payment Code: PMT ITAS

Payment Date: _____

OTC #: _____

Case #: 332041803A

OHIO DEPARTMENT OF TAXATION
P.O. BOX 1090
COLUMBUS, OH 43216-1090

035410971830575200110012008073199961877641011160000000000000006409194

EXHIBIT C

JENNIFER MANAGEMENT III, LTD.
417 Crossways Park Drive
Woodbury, NY 11797
(516) 496-1900

December 13, 2010

Ohio Department of Taxation
Compliance Division
P.O. Box 1090
Columbus, OH 43216-1090

Re: Petition for Reassessment
Assessment # 8100403675

To Whom It May Concern:

We are in receipt of your attached notice.

According to your notice, you have indicated "Audit Type: FA", which indicated a Field Audit assessment generated based on a field audit. You also indicated that the period assessed was from 10/01/01 to 07/31/08.

Be aware that no Field Audit was ever conducted between Jennifer Convertibles, Inc. and the Ohio Department of Taxation. Also, we have ceased operations in Ohio as May 21, 2008, prior assessment period end date. We had filed Use Tax returns showing no Use tax due while in operations in Ohio.

We feel your assessment is unwarranted and unsubstantiated. We therefore, kindly request that you abate this notice.

Should you choose not to abate this notice for any reason, please note that Jennifer Management III, Ltd. filed for Chapter 11 bankruptcy on July 18, 2010 (Primary Case Docket No. 10-1377) in the U.S. Bankruptcy Court Southern District of New York. You must file a claim by January 18, 2011.

Your claim can be sent by regular mail to:

BMC Group Inc.
Attn: Jennifer Convertibles Claims Processing
PO Box 3020
Chanhassen, MN 55317-3020

Regards,
JENNIFER MANAGEMENT III LTD.
Account Department

JENNIFER CONVERTIBLES, INC.
417 Crossways Park Drive
Woodbury, NY 11797
(516) 496-1900

December 13, 2010

Ohio Department of Taxation
Compliance Division
P.O. Box 1090
Columbus, OH 43216-1090

Re: Petition for Reassessment
Assessment # 8100403675

To Whom It May Concern:

We are in receipt of your attached notice.

According to your notice, you have indicated "Audit Type: FA", which indicated a Field Audit assessment generated based on a field audit. You also indicated that the period assessed was from 10/01/06 to 01/31/09.

Be aware that no Field Audit was ever conducted between Jennifer Convertibles, Inc. and the Ohio Department of Taxation. Also, we have ceased operations in Ohio as May 21, 2008, prior assessment period end date. We had filed Use Tax returns showing no Use tax due while in operations in Ohio.

We feel your assessment is unwarranted and unsubstantiated. We therefore, kindly request that you abate this notice.

Should you choose not to abate this notice for any reason, please note that Jennifer Convertibles, Inc. filed for Chapter 11 bankruptcy on July 18, 2010 (Primary Case Docket No. 10-1377) in the U.S. Bankruptcy Court Southern District of New York. You must file a claim by January 18, 2011.

Your claim can be sent by regular mail to:

BMC Group Inc.
Attn: Jennifer Convertibles Claims Processing
PO Box 3020
Chanhassen, MN 55317-3020

Regards,
JENNIFER CONVERTIBLES, INC.
Account Department

EXHIBIT D

May 1, 2011

United States Bankruptcy Court for the Southern District of New York
Alexander Hamilton Custom House
ATTN: Judge Allan L. Groppe
One Bowling Green
Court Room 617
New York, New York 10004-1408

OLSHAN GRUNDMAN FROME ROSENZWEIG & WOLOSKY LLP
Park Avenue Tower
65 East 55th Street
New York, New York 10022
ATTN: Michael S. Fox, Esq.
Jordanna L. Nadritch, Esq.

**Re: Response to Third Omnibus Objection (Case No. 10-13779 ALG) / Claim # 363
for James Conlee Jackson**

To whom it may concern:

Here are my answers:

a). United States Bankruptcy Court for the Southern District of New York; Debtors: (Jennifer Convertibles, Inc (4646); Jennifer Convertibles Boylston MA, Inc. (7904); Jennifer Chicago Ltd. (0505); Elegant Living Management, Ltd. (5049); Hartsdale Convertibles, Inc. (1681); Jennifer Management III Corp. (3552); Jennifer Purchasing Corp. (7319); Jennifer Management II Corp. (9177); Jennifer Management V Ltd. (9876); Jennifer Convertibles Natick, Inc. (2227); Nicole Convertibles, Inc. (5985); Washington Heights Convertibles, Inc (0783). (Case No. 10-13779 ALG); DEBTOR'S THIRD OMNIBUS OBJECTION TO CERTAIN PROOFS OF CLAIM FILED AS PRIORITY AND SECURED CLAIMS THAT DO NOT CORRESPOND TO THE DEBTORS' BOOKS AND RECORDS.

b). James Conlee Jackson – My Lifetime Warranty not honored due to Jennifer Sofabed filing Chapter 11 bankruptcy protection.

c). It is in my humble opinion that the Bankruptcy Court of the Southern District of New York **SHOULD NOT** sustain this Third Omnibus Objection in my case because it is not my fault that I was not aware that Jennifer Sofabed had gone out of business. As an American consumer, I purchased a Lifetime Warranty with Jennifer Sofabed in good faith. I believe that it was **TOTALLY REASONABLE** for me to consult with this company **ONLY** when the time came for me to seek their assistance related to my Lifetime Warranty issue. Why would I keep a “watchful eye” on Jennifer Sofabed over the years to see if they were still “afloat” or not? The answer is I wouldn't and neither would my fellow American consumers.

I feel it is unfair, unjustified and unreasonable for Jennifer Sofabed's attorneys to attempt to throw my claim out because I did not meet the original "bar date." As soon as I became aware of the status of Jennifer Sofabed's financial status (due to my seeking a claim under my Lifetime Warranty), I IMMEDIATELY did my part to make myself whole in relation to this issue. I did my due-diligence and followed all the instructions I received through the Better Business Bureau (BBB). In conclusion, it is my sincere hope that the court DOES NOT dismiss my claim and hopefully it can and will be resolved in a fair and just way.

d). I have no other documents to add that are not already a part of this claim.

e). I myself (James Jackson) declare that everything included herein is factual and true to the best of my knowledge.....so help me God.

f). All this information is found in my heading above.

This ends my response. If anyone has any questions, please feel free to contact me via any of the means located in the footer of each page. Thank you.

Sincerely,


James C. Jackson