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Hearing Date: October 25, 2011 @ 10:00 a.m.
Objection Deadline: October 21, 2011 @ 4:00 p.m.

Counsel to The Trust Administrator For
The Jennifer Convertibles Litigation Trust

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

In re:)	Chapter 11
JENNIFER CONVERTIBLES, INC., <i>et al.</i> ¹)	Case No. 10-13779 (ALG)
Debtors.)	(Jointly Administered)
)	
)	

**SECOND MOTION OF THE TRUST ADMINISTRATOR FOR THE JENNIFER
CONVERTIBLES LITIGATION TRUST FOR AN ORDER EXTENDING THE TIME
TO FILE OBJECTIONS TO DISPUTED GENERAL UNSECURED CLAIMS**

The Trust Administrator (the “Trust Administrator”) for the Jennifer Convertibles Litigation Trust (the “Trust”) of Jennifer Convertibles, Inc., *et al.*, the above-captioned debtors and debtors-in-possession (collectively, the “Debtors”), by and through its counsel, Kelley Drye & Warren LLP, hereby files this second motion (the “Motion”) for entry of an order extending the time for the Trust Administrator to file objections to disputed general unsecured claims from October 20, 2011 to January 20, 2012. In support of this Motion, the Trust Administrator respectfully states as follows:

¹ 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.

JURISDICTION

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334, section 13.01 of the Plan (as defined below) and paragraph 39 of the Confirmation Order (as defined below). This matter is a core proceeding under 28 U.S.C. § 157(b). Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief sought herein are section 105(a) of the Bankruptcy Code and Rule 9006(b) of the Federal Rules of Bankruptcy Procedure.

BACKGROUND

2. On July 18, 2010 (the “Petition Date”), each of the Debtors filed with this Court a voluntary petition for relief under chapter 11 of the Bankruptcy Code. Following the Petition Date, the Debtors have continued 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 or examiner has been appointed in these cases.

3. On February 8, 2011, the Court entered an Order (the “Confirmation Order”)² confirming the Debtors’ Amended Joint Chapter 11 Plan of Reorganization For Jennifer Convertibles, Inc. and its Affiliated Debtors (the “Plan”).³

4. Pursuant to section 9 of the Plan, the Trust was formed on February 22, 2011, which was the date the Plan became effective (the “Effective Date”).⁴ The Trust was formed for the purpose of (i) liquidating and distributing, among other things, the Litigation Trust Causes of Action, the Tranche A Note, the Tranche C Note, 9.9% of the New Common

² Docket Entry No. 491.

³ Docket Entry No. 399.

⁴ Docket Entry No. 503.

Stock and any other assets acquired by the Trust (the “Litigation Trust Fund”); and (ii) pursuing objections to disputed general unsecured claims. Pursuant to section 8.01 of the Plan, the Debtors were deemed to have assigned to the Trust on the Effective Date the exclusive right to object to disputed general unsecured claims. The appointment of the Trust Administrator was approved pursuant to paragraph 17 of the Confirmation Order.

5. Pursuant to the Plan, on the Effective Date, the Trust was funded with \$100,000 of cash to allow the Trust to handle numerous administrative expenses. The Tranche A Note, in the amount of \$1,400,000, is due and payable on February 22, 2012. The Tranche C Note, in the amount of \$950,000, is due and payable on February 22, 2014. On August 23, 2011, the Trust received the first installment of interest due under the Tranche A Note and the Tranche C Note, in the aggregate amount of \$44,382.19.

6. The right to object to disputed general unsecured claims was assigned to the Trust Administrator because it has the greatest incentive to ensure that holders of legitimate general unsecured claims receive the maximum possible distribution from the fixed assets allocated to the payment of general unsecured claims under the Plan.

7. Pursuant to section 8.01 of the Plan, the original deadline for the Trust Administrator to file objections to general unsecured claims was August 21, 2011 (180 days after the Effective Date), subject to the right to seek further extensions from the Court.

8. On June 8, 2011, the Trust Administrator filed its first motion to extend the objection deadline.⁵ On July 12, 2011, the Court entered an order extending the objection deadline to October 20, 2011 (the “Objection Deadline”).⁶

⁵ Docket Entry No. 589.

⁶ Docket Entry No. 605.

9. Since the Effective Date, the Trust Administrator has made progress in facilitating the liquidation of the Litigation Trust Fund. The Trust Administrator has retained ASK Financial LLP (“ASK”) to investigate and pursue chapter 5 avoidance actions. ASK has worked closely with the Trust Administrator and the Debtors to assemble necessary information to analyze the viability of such avoidance actions and to recover further assets to be distributed to holders of allowed the general unsecured claims. In September 2011, ASK sent preference demand letters to parties that may have received preferential transfers and is in the process of preparing complaints to recover such preferential transfers.

10. The Trust Administrator has also engaged the law firm of Platzer, Swergold, Karlin, Levine, Goldberg & Jaslow, LLP to pursue the claim that was assigned to the Trust against the Debtors’ former directors and officers.

11. The Trust Administrator has, without the assistance of the Reorganized Debtors, made substantial progress in the review and analysis of the outstanding scheduled and filed claims asserted as general unsecured claims against the Debtors. On the date hereof, the Trust Administrator filed (i) a first (non-substantive) omnibus objection to certain (a) duplicative claims; (b) wrong debtor claims; (c) amended and superseded claims; (d) late filed claims; (e) satisfied claims; and (f) equity claims (the “First Omnibus Objection”);⁷ and (ii) a second (substantive) omnibus objection to certain (a) overstated claims; (b) no liability claims; and (c) rejection damages claims (the “Second Omnibus Objection”).⁸

12. Between the First Omnibus Objection and the Second Omnibus Objection, the Trust Administrator has been able to object to over ninety of the four hundred claims filed against the Debtors’ estates, seeking a reduction of the total filed claims by over \$11 million.

⁷ Docket Entry No. 618.

⁸ Docket Entry No. 620.

The Trust Administrator was able to object to these claims based solely upon the substance of the filed claims and the Debtors' schedules.

13. Based upon its review of the remaining filed claims and the Debtors' schedules, the Trust Administrator believes additional objections to general unsecured claims may be warranted. However, the Trust Administrator needs additional information from the Reorganized Debtors to confirm whether such objections are appropriate.

14. On September 6, 2011, counsel to the Trust Administrator sent an email to counsel to the Reorganized Debtors inquiring as to the procedure the Reorganized Debtors would like to use for information requests from the Trust Administrator regarding general unsecured claims. Counsel to the Reorganized Debtors requested the Trust Administrator put a list of questions together and send it to counsel.

15. Accordingly, on September 15 and September 21, 2011, counsel for the Trust Administrator sent two sets of information requests to counsel for the Reorganized Debtors containing detailed requests regarding general unsecured claims. Specifically, the Trust Administrator requested information from the Reorganized Debtors pertaining to approximately 170 filed claims where such claims (a) exceeded the amounts set forth in the Debtors' schedules, (b) did not correspond to any scheduled claim; (c) were for contracts or leases that may have been assumed and cured; (d) asserted claims that are liabilities of the Reorganized Debtors under the terms of the Plan; and (e) did not provide sufficient back-up for the Trust Administrator to determine the validity of such claims and the amounts asserted therein. In addition, the Trust Administrator requested information from the Reorganized Debtors with respect to approximately 100 scheduled claims which the Trust Administrator was unable to match to filed claims, to ensure creditors would not receive duplicative recoveries.

16. Counsel to the Trust Administrator sent follow up inquiries as to the status of responses to counsel for the Reorganized Debtors on September 27 and October 4, 2010. Counsel for the Reorganized Debtors has failed to respond in any way to the initial requests or the Trust Administrator's follow up inquiries. To date, the Reorganized Debtors have failed, despite repeated requests, to provide the Trust Administrator: (i) any information with respect to these inquiries; and (ii) an estimate of when the Trust Administrator can expect to receive such additional information. Although the Trust Administrator would prefer not to expend Trust assets to do so, if the Reorganized Debtors continue to fail to cooperate, the Trust Administrator will be forced to seek relief from this Court to compel the Reorganized Debtors to cooperate and comply with the terms of the Plan.

17. The information requested by the Trust Administrator is critical to determine whether further objections to general unsecured claims are warranted. Without such information, the Trust Administrator would merely be guessing as to the validity of additional claim objections and would potentially be wasting valuable time and resources in objecting to claims.

RELIEF REQUESTED

18. By the Motion, the Trust Administrator seeks entry of an order, pursuant to section 105(a) of the Bankruptcy Code and Rule 9006(b) of the Federal Rules of Bankruptcy Procedure, extending the Objection Deadline for three months, through and including January 20, 2012, without prejudice to the Trust Administrator's right to request additional extensions, if necessary. This extension would provide the Trust Administrator with time to obtain the needed information from the Reorganized Debtors, assess the validity of the remaining general unsecured claims, and, if necessary, prepare and file additional objections.

BASIS FOR RELIEF

19. Section 8.01 of the Plan expressly contemplates the potential extension of the Objection Deadline. Section 8.01 provides that objections to claims shall be filed:

no later than: (a) 180 days after the Effective Date; or (b) such other date as may be fixed by the Bankruptcy Court, whether fixed before or after the date specified in clause (a) hereof. The Filing of a motion to extend such objection deadline shall automatically extend such deadline until a Final Order is entered on such motion. In the event that such a motion to extend the objection deadline is denied by the Bankruptcy Court, or approved by the Bankruptcy Court and reversed on appeal, such objection deadline shall be the later of the current deadline (as previously extended, as applicable) or 30 days after entry of a Final Order denying the motion to extend the objection deadline.⁹

20. Section 105(a) of the Bankruptcy Code authorizes the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this Title.”¹⁰ Furthermore, Bankruptcy Rule 9006(b) provides that, subject to certain inapplicable exceptions:

[w]hen any act is required or allowed to be done at or within a specified period by these rules or by notice given thereunder or by order of the court, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) on motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.¹¹

21. Extending the current Objection Deadline for the Trust Administrator to object to disputed general unsecured claims will not harm general unsecured creditors and is in the best interest of the Debtors’ estates and the holders of valid general unsecured claims.

Moreover, initial distributions to holders of allowed general unsecured claims cannot be made

⁹ Plan at § 8.01.

¹⁰ 11 U.S.C. § 105(a).

¹¹ Fed. R. Bankr. P. 9006(b).

until after the Trust receives payment on the Tranche A Note on February 22, 2012. As set forth above, the Trust Administrator has already made substantial progress in analyzing the outstanding general unsecured claims and has filed its first two omnibus objections to over ninety claims. However, without further information from the Reorganized Debtors, the Trust Administrator lacks sufficient information to form a conclusion as to the validity of over 150 additional claims. If such claims are objectionable based upon the information in the sole possession of the Reorganized Debtors, general unsecured creditors with valid claims against the Debtors' estates would be forced to share recoveries with creditors holding invalid or excessive claims as a result of the Reorganized Debtors' failure to turn over necessary information to the Trust Administrator.

22. The requested extension will ensure the Trust Administrator has adequate time to (i) assemble and review the requested information from the Reorganized Debtors related to the proper allowance of claims; (ii) prepare and file objections; and (iii) try and resolve claims without the need for litigation. Such an extension will avoid the undesirable alternative of having the Trust Administrator hastily file protective objections to claims or the allowance of improper claims.

WAIVER OF MEMORANDUM OF LAW

23. Since this Motion does not present any novel issues of law and the appropriate citations relied on by the Trust Administrator are cited herein, the Trust Administrator submits that a separate memorandum of law in support of the Motion is not necessary under Local Bankruptcy Rule 9013-1.

