

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

**STIPULATION AND ORDER RESOLVING THE UNITED STATES TRUSTEE'S
OBJECTION TO THE DEBTOR'S MOTION SEEKING A FINAL DECREE**

WHEREAS, on or about July 18, 2010, Jennifer Convertibles, Inc. (the "Debtor") and certain affiliated Debtors (collectively referred to as the "Debtors"), each filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code, and thereafter continued in possession and management of their businesses as debtors-in-possession, pursuant to 11 U.S.C. §§ 1107, 1108; and

WHEREAS, the Debtors' cases were jointly administered, but were never substantively consolidated; and

WHEREAS, on or about February 9, 2011, the Court confirmed the Debtors' amended joint chapter 11 plan of reorganization; and

WHEREAS, by order signed on July 7, 2011, the Court closed the chapter 11 cases of the affiliated Debtors, leaving the Debtor's case open; and

WHEREAS, after confirmation, the Debtor has failed in its obligation to pay quarterly fees to the United States Trustee's office, pursuant to 28 U.S.C. § 1930(a)(6) and any applicable interest thereon; and

WHEREAS, pursuant to 28 U.S.C. § 1930(a)(6), the Debtor was required to pay quarterly fees and any applicable interest thereon to the United States Trustee for each quarter until the Court converted or dismissed its case, or, entered a final decree in its case; and

WHEREAS, on May 28, 2014, the Debtor requested the Court to enter a final decree in its case; and

WHEREAS, on June 13, 2014, the United States Trustee objected to the entry of final decree for the reason that the Debtor has failed to pay its outstanding United States Trustee quarterly fees and any applicable interest thereon; and

WHEREAS, the parties wish to achieve an amicable resolution in this case regarding payment of United States Trustee fees and the entry of a final decree;

NOW, on the signed consent of the Debtor and the United States Trustee, it is hereby ORDERED AND ADJUDGED AS FOLLOWS:

1. The Debtor owes the United States Trustee the sum of \$262,340.40 with regard to outstanding United States Trustee quarterly fees pursuant to 28 U.S.C. § 1930(a)(6) and any applicable interest thereon.

2. The Debtor shall pay the United States Trustee on the following schedule:

a) \$50,000 on or before August 15, 2014; and

b) \$15,000 per month on the 15th of each calendar month, commencing on September 15, 2014, and continuing for the next 14 calendar months.

3. The Debtor shall make the aforementioned payments by certified check or money order payable to the United States Trustee which shall be mailed or delivered to the

United States Trustee
Southern District of New York
201 Varick Street, Suite 1006
New York, New York 10014
Attn: Anna M. Martinez, Bankruptcy Analyst

or to such other address as the United States Trustee may request.

4. The Debtor shall have the right to pre-pay the entire balance due without penalty and may tender payments in amounts greater than those stipulated in paragraph 2.

5. Should the Debtor fail to comply with the terms of paragraph 2, or should any check or draft presented by or on behalf of the Debtor as payment in compliance with this Stipulation and Order be returned for insufficient funds, the entire balance shall be accelerated and immediately due as provided for in paragraphs 6 and 7 below.

6. Before declaring the Debtor in default pursuant to paragraph 5 herein, the United States Trustee shall first afford the Debtor notice of such default in writing and shall afford the Debtor thirty (30) days from the date of mailing to cure the default ("Cure Period"). Notice of default shall be mailed to the Debtor at the following address:

To the Debtor:

Olshan Frome Wolosky LLP
Park Avenue Tower
65 East 55th Street
New York, NY 10022
Attention: Michael S. Fox, Esq.

7. Should the Debtor fail to cure the default with the aforementioned Cure Period, the United States Trustee shall have judgment against the Debtor in the sum of \$262,340.40, with interest from the date of this Stipulation and Order as provided by law, minus any and all payments that may have been made by the Debtor, pursuant to this Stipulation and Order. Nothing herein shall be deemed a consent to judgment by the Debtor unless the Cure Period has lapsed and the Debtor has failed to cure. A form of Judgment is annexed hereto as Exhibit A. No further order from this or any other Court will be required in order for the United States Trustee to file this judgment in any and all counties in which the Debtor owns real or personal property and/or to seek execution on the judgment.

8. If, after the entry of judgment against the Debtor as set forth in paragraph 7, the Debtor makes payment in full of the judgment balance, the United States Trustee shall deliver to the Debtor at the address set forth above in paragraph 6, a satisfaction of judgment.

9. Upon the entry of this Stipulation and Order by the Clerk of the Court, the United States Trustee withdraws his objection to the entry of Final Decree.

AGREED AND CONSENTED TO:

Dated: New York, New York
August 22, 2014

WILLIAM K. HARRINGTON,
UNITED STATES TRUSTEE, REGION 2

By: /s/ Nazar Khodorovsky
Nazar Khodorovsky
Trial Attorney
201 Varick Street, Suite 1006
New York, New York 10014
Tel. No. (212) 510-0500

Dated: New York, New York
August 22, 2014

Olshan Frome Wolosky LLP
Attorneys for the Debtor

By: /s/ Michael S. Fox
Michael S. Fox, Esq.
65 East 55th Street
New York, New York 10022
Tel. No. (212) 451-2277

SO ORDERED:

Dated: New York, New York
_____, 2014

HONORABLE ALLAN L. GROPPER
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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

WHEREAS, on or about July 18, 2010, Jennifer Convertibles, Inc. (the “Debtor”) and certain affiliated Debtors (collectively referred to as the “Debtors”), each filed voluntary petitions for relief under Chapter 11 of the Bankruptcy Code, and thereafter continued in possession and management of their businesses as debtors-in-possession, pursuant to 11 U.S.C. §§ 1107, 1108; and

WHEREAS, the Debtors’ cases were jointly administered, but were never substantively consolidated; and

WHEREAS, on or about February 9, 2011, the Court confirmed the Debtors’ amended joint chapter 11 plan of reorganization; and

WHEREAS, by order signed on July 7, 2011, the Court closed the chapter 11 cases of the affiliated Debtors, leaving the Debtor’s case open; and

WHEREAS, after confirmation, the Debtor failed in its obligation to pay quarterly fees to the United States Trustee’s office, pursuant to 28 U.S.C. § 1930(a)(6) and any applicable interest thereon; and

WHEREAS, pursuant to 28 U.S.C. § 1930(a)(6), the Debtor was required to pay quarterly fees and any applicable interest thereon to the United States Trustee for each quarter until the Court converted or dismissed its case, or, entered a final decree in its case; and

WHEREAS, on May 28, 2014, the Debtor requested the Court to enter a final decree in its case; and

WHEREAS, on June 13, 2014, the United States Trustee objected to the entry of final decree for the reason that the Debtor has failed to pay its outstanding United States Trustee quarterly fees and any applicable interest thereon; and

WHEREAS, in a Stipulation and Order, between the United States Trustee and the Debtor, dated August 22, 2014 (the "Stipulation and Order"), the Debtor agreed that it owed to the United States Trustee the sum of \$262,340.40, with interest as provided by law, to the United States Trustee, and further agreed to pay the United States Trustee by certified check or money order on the following schedule:

- a) \$50,000 on or before August 15, 2014; and
- b) \$15,000 per month on the 15th of each calendar month, commencing on September 15, 2014, and continuing for the next 14 calendar months; and

WHEREAS, pursuant to the Stipulation and Order, should the Debtor fail to timely make any payment required to be made under the Stipulation and Order, the United States Trustee will mail notice to the Debtor of said default (the "Notice") and will provide the Debtor with an opportunity to cure such default within thirty (30) days of the mailing of the Notice (the "Cure Period"); and

WHEREAS, in the Stipulation and Order, the Debtor and the United States Trustee agreed that should the Debtor's default not be cured within the Cure Period, the United States Trustee shall have judgment against the Debtor in the form annexed to the Stipulation and Order as Exhibit A;

NOW, on the signed consent of the Debtor and the United States Trustee, it is hereby AGREED AS FOLLOWS:

1. The Debtor has failed to cure its default within the Cure Period as set forth in the Annexed Declaration signed by a staff member of the Office of the United States Trustee attesting to the aforesaid default.

2. The United States Trustee shall have judgment against the Debtor, in the sum of \$262,340.40, with interest from the date of entry of the Stipulation and Order, less any payments that were made by the Debtor to the United States Trustee (the "Judgment Balance") in accordance with the Stipulation and Order (the "Judgment");

3. The United States Trustee shall advise the Debtor by overnight mail that the United States Trustee shall seek to execute upon the Judgment. A copy of the Judgment shall be served by overnight mail upon the Debtor at the following address:

Olshan Frome Wolosky LLP
Park Avenue Tower
65 East 55th Street
New York, NY 10022
Attention: Michael S. Fox, Esq.

4. The United States Trustee shall be permitted to file the Judgment in any and all counties in which the Debtor owns real or personal property or conducts business, and such filing shall be a lien on such property.

5. Should the Debtor make payment in full of the Judgment Balance, the United States Trustee shall deliver to the Debtor at the address set forth above in paragraph 3, a satisfaction of the Judgment.

Dated: New York, New York
_____, 2014

WILLIAM K. HARRINGTON,
UNITED STATES TRUSTEE, REGION 2

By: Sample

Trial Attorney
201 Varick Street, Suite 1006
New York, New York 10014
Tel. No. (212) 510-0500