

IN THE MATTER OF THE CONSOLIDATED BANKRUPTCY OF

**Nygård Holdings (USA) Limited, Nygard Inc., Fashion Ventures, Inc.,
Nygard NY Retail, LLC, Nygard Properties Ltd., Nygard Enterprises Ltd.,
4093879 Canada Ltd., 4093887 Canada Ltd., and Nygard International Partnership
of the City of Winnipeg
in the Province of Manitoba**

**TRUSTEE'S REPORT TO THE FIRST MEETING OF CREDITORS
ON PRELIMINARY ADMINISTRATION**

BACKGROUND

The Nygard Group (as hereinafter defined) carried on a complex, integrated business involving the design, manufacture, supply, retail and wholesale of multiple product lines and fashion brands of primarily women's fashion apparel (the "**Business**").

In early 2020, the Nygard Group faced a number of significant challenges, including liquidity constraints and the negative impact to both the "Nygard" brand and the Business following, among other things: (i) the filing of a class action lawsuit in the United States District Court for the Southern District of New York against Peter J. Nygard (the ultimate 100% owner of the Nygard Group entities) and certain of the Debtors alleging sexual abuse and other serious offenses, and (ii) the raiding of the Debtors' New York and California premises by the NY Police and FBI (each as hereinafter defined) in connection with an investigation into allegations of sex-trafficking.

Following the above actions, and with continuing defaults under the Debtors' (as hereinafter defined) secured credit agreement with White Oak Commercial Finance, LLC ("**White Oak**" or the "**Secured Lender**"), on February 26, 2020, White Oak issued to the Debtors a demand for repayment and Notice of Intention to Enforce its Security, pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, (the "**BIA**").

On March 9, 2020, certain of the Nygard Group entities filed Notices of Intention to Make a Proposal ("**NOI**"), pursuant to the BIA, for the purpose of staying the exercise of remedies by creditors of the Nygard Group (including White Oak) and otherwise accessing the proposal provisions of the BIA.

On March 10, 2020, White Oak filed a Notice of Application in the Court of King's Bench of Manitoba (Winnipeg Centre) (the "**Manitoba Court**") to appoint Richter Inc. (formerly, Richter Advisory Group Inc., "**Richter**") as Court-appointed receiver (the "**Receiver**") over the assets, undertakings and properties (the "**Property**") of Nygård Holdings (USA) Limited ("**NHU**"), Nygard Inc. ("**NI**"), Fashion Ventures, Inc. ("**FV**"), Nygard NY Retail, LLC ("**NYC**"), Nygard Enterprises Ltd. ("**NEL**"), Nygard International Partnership ("**NIP**"), Nygard Properties Ltd. ("**NPL**"), 4093879 Canada Ltd. ("**879**"), and 4093887 Canada Ltd. ("**887**" and, collectively with NHU, NI, FV, NYC, NEL, NIP, NPL and 879, the "**Nygard Group**" or the "**Debtors**").

On March 18, 2020 (the “**Receivership Appointment Date**”), the Manitoba Court issued an order (the “**Receivership Order**”) that, among other things, appointed Richter as Receiver of the Property of the Debtors. The Receivership Order was amended by way of a further order of the Manitoba Court made April 29, 2020, in relation to assets, undertakings and properties of NPL and NEL. As a result, the Receivership Order extended to certain of the assets of NPL and NEL and not their respective undertakings, such that NPL and NEL continued to carry on limited business activities after the Receivership Appointment Date outside of the control of the Receiver.

Also on March 18, 2020, the Receiver, as the duly appointed foreign representative (the “**Foreign Representative**”) of the Debtors, commenced proceedings in the United States Bankruptcy Court for the Southern District of New York (the “**US Court**”) by filing, among other things, petitions on behalf of the Receiver in relation to the Debtors pursuant to sections 1504 and 1515 of the US Bankruptcy Code seeking recognition by the US Court of the Canadian proceedings as a foreign main proceeding (the “**Chapter 15 Proceedings**”). On March 26, 2020, the US Court entered, among other things, a provisional recognition order and, on April 23, 2020, the US Court granted a final order recognizing, among other things, the Canadian proceedings as the foreign main proceeding. The Canadian proceedings and the Chapter 15 Proceedings are together hereinafter referred to as the “**Receivership Proceedings**”.

During the course of the Receivership Proceedings, the Receiver has realized on the Property, paid expenses and made disbursements, all in accordance with the Receivership Order and subsequent orders of the Manitoba Court.

On March 10, 2022, the Manitoba Court made an order (the “**Consolidation/Bankruptcy Order**”), among other things: (i) declaring the assets and liabilities of the Debtors to be substantively consolidated for the purpose of addressing the claims of creditors of each of the Debtors, (ii) authorizing the Receiver to file assignments in bankruptcy on behalf of the Debtors, other than NPL and NEL, (iii) authorizing the Receiver to file applications for bankruptcy orders in the Manitoba Court in relation to NPL and NEL on a basis that reflects the substantive consolidation of the estates of the Debtors (and lifted the stay of proceedings under the Receivership Order for the purpose of allowing that to occur), (iv) appointing the Receiver as trustee in bankruptcy (the “**Trustee**”) of each of the Debtors, and (v) authorizing the Receiver, in its capacity as Trustee, to apply for an order for the procedural and substantive consolidation of the estates of each of the Debtors in bankruptcy for all purposes in the administration of the bankrupt estates under the BIA.

NPL/NEL appealed the Consolidation/Bankruptcy Order, which was heard by the Manitoba Court of Appeal on April 19, 2023. On September 11, 2023, the Manitoba Court of Appeal dismissed the NPL/NEL appeal and upheld the Consolidation/Bankruptcy Order. NPL/NEL did not appeal the decision of the Manitoba Court of Appeal and the appeal period has expired such that the Consolidation/Bankruptcy Order has become final.

On June 19, 2024, the Receiver filed assignments in bankruptcy in respect of each of the Debtors, excluding NPL and NEL, pursuant to the BIA, and Richter was appointed Trustee of each of the bankrupt estates by the Office of the Superintendent of Bankruptcy, subject to affirmation by the creditors at the first meeting of creditors.

On June 20, 2024, the Manitoba Court made an order, among other things: (i) adjudging NPL and NEL bankrupt, (ii) appointing Richter as Trustee of the NPL/NEL bankrupt estates, and (iii) declaring that the estates in bankruptcy of NPL, NEL, NHU, NI, FV, NYC, 879, 887 and NIP be substantively and administratively consolidated for all purposes in the administration of the estates under the BIA.

On June 26, 2024, notice of the first meeting of creditors of the Debtors' consolidated bankruptcy proceedings (the "**Meeting**"), a list of creditors (as per the Debtors' books and records as of March 2020), proof of claim form/proxy, and registration form to attend the Meeting (which is being held via videoconference) were sent to all known creditors of the Debtors. On June 28, 2024, a notice advising of the Debtors' consolidated bankruptcy and the date/time of the Meeting was published in the Globe and Mail (National Edition).

The activities of the Trustee since its appointment have primarily consisted of the performance of statutory duties in accordance with the provisions of the BIA. The Trustee will discuss the administration of the Debtors' consolidated bankrupt estate with the estate inspectors, if any, appointed at the Meeting.

CAUSES OF BANKRUPTCY

The following circumstances and events are relevant to the Debtors' consolidated bankruptcies, including the NOI filing by certain of the Debtors and, subsequently, the granting of the Receivership Order:

1. in January 2020, shortly after White Oak finalized and funded a credit agreement/facility with the Debtors, the Debtors asserted drastic and immediate changes to their liquidity needs which were substantially more than the agreed loan availability limits. In addition, the Debtors committed various defaults under the credit agreement (including alleging that the Debtors had not agreed to the credit agreement and were not bound by it);
2. on February 13, 2020, a class action lawsuit was filed in the United States District Court for the Southern District of New York against Peter J. Nygard and certain Debtors. The class action, brought on behalf of alleged victims of sexual abuse by Peter J. Nygard, made certain allegations of sexual abuse and aiding and abetting in a sex-trafficking scheme (allegations that Mr. Nygard denies);
3. on or about February 25, 2020, a Federal Bureau of Investigation ("**FBI**") and New York City Police Department Task Force (the "**NY Police**") raided the Nygard Group's New York and California premises in connection with an investigation into sex-trafficking;
4. also on February 25, 2020, Dillard's department stores, the Nygard Group's largest customer (representing approximately 67% of the Nygard Group's third-party wholesale business), made public statements that it was refusing deliveries, had cancelled all existing orders and suspended all future purchases from the Nygard Group;
5. as a result of the above, White Oak had concerns that the value of the Debtors' Business assets was deteriorating and delivered to the Debtors a demand for repayment and a Notice of Intention to Enforce Security pursuant to the BIA;

6. the Debtors failed to repay the credit facility and, on March 9, 2020, White Oak served a Notice of Application for the appointment of the Receiver. Shortly thereafter, on the same date, certain of the Debtors commenced NOI proceedings;
7. on March 17, 2020, the Nygard Group released a statement to all Nygard Group employees (and on the Nygard Group's Instagram account) that, due to the COVID-19 pandemic, the Debtors had closed their distribution centre and office facilities and were immediately closing all retail stores and the e-commerce site; and
8. on March 18, 2020, the Manitoba Court granted the Receivership Order and stayed the NOI proceedings. The Manitoba Court released its reasons for judgement on March 26, 2020, setting out the reasons for granting the Receivership Order, including a finding that the Debtors had not been acting in good faith and with due diligence and that the Nygard Group had failed to comply with certain orders of the Manitoba Court.

The Receivership Proceedings facilitated the sale of the Debtors' Property and the repayment of the secured amounts due to White Oak. As the Receivership Proceedings have generated proceeds from the sale of the Property which remain available for unsecured creditors, the Debtors' bankruptcy proceedings will, among other things, bring to bear the provisions of the BIA intended to address the claims of unsecured creditors.

FINANCIAL POSITION/ASSETS

As reported on the Debtors' Statement of Affairs, as at the date of bankruptcy, the Receiver held net proceeds from the sale of the Property totaling approximately CDN\$8,050,000 and USD\$765,000. The final amount of the net Receivership proceeds remaining after completion of remaining Receivership activities will be somewhat less than the amounts currently held by the Receiver on account of the costs associated with finalizing those activities.

To the best of the Trustee's knowledge, the above noted funds are the only remaining material assets of the Debtors.

SECURED CREDITORS

As noted above, the secured amounts due by the Debtors to White Oak were repaid, in full, during the Receivership Proceedings.

The Trustee is not aware of any other secured parties or potential priority claims.

SECURITY FOR UNPAID WAGES – S.81.3 CLAIMS

During the Receivership Proceedings, the Receiver reviewed the Nygard Group's books and records to determine what, if any, amounts were owed to the Debtors' former employees for wages and vacation pay that would qualify as claims pursuant to section 81.4 of the BIA. The Receiver also complied with its obligations/responsibilities pursuant to the *Wage Earner Protection Program Act*.

The Trustee is not aware of any claims that would qualify as claims pursuant to section 81.3 of the BIA.

PREFERRED CREDITORS

As reported on the Debtors' Statement of Affairs, as at the date of bankruptcy, there were no known preferred creditors.

UNSECURED CREDITORS

The Debtors' Statement of Affairs indicates that there are approximately 772 unsecured creditors (excluding claims of former employees) with claims totalling approximately \$25.7 million.

CLAIMS FILED

As at 5:00 p.m. on July 8, 2024, the Trustee has recorded Proof of Claims filed, as follows:

	Claims Filed (#)	Amount (CAD)	Proxies in Favour of Trustee (#)	Amount (CAD)
Secured	5*	\$ 198,015.96	-	-
Preferred	-	-	-	-
Unsecured	21	\$ 10,282,723.71	3	\$ 442,335.07
TOTAL	26	\$ 10,480,739.67	3	\$ 442,335.07

* includes Property claim filed in the amount of \$5,015.63

PREFERENCE PAYMENTS AND TRANSFERS UNDER VALUE

The Receiver performed a preliminary review of the Debtors' books and records to assist with asset identification and recovery efforts. During its review, the Receiver became aware of a number of concerning transactions completed by former employees/executives of the Debtors prior to or shortly after the Receivership Appointment Date.

The Trustee intends to discuss its next steps with respect to any potential preferences or transfers at undervalue, as defined in the BIA, with the estate inspectors, if any, appointed at the Meeting.

TRUSTEE'S FEES

The Trustee's fees and disbursements, including the fees and disbursements of its legal counsel, are to be paid from the Debtors' bankrupt estate.

OTHER

Further information relating to the Nygaard Group's bankruptcy (and Receivership) proceedings may be obtained from Richter's website at: <https://www.richter.ca/insolvencycase/nygard-group/>

Dated at Toronto, Ontario, this 8th day of July, 2024.

RICHTER INC.

in its capacity as Licensed Insolvency Trustee of the estate of
Nygård Holdings (USA) Limited, Nygard Inc.,
Fashion Ventures, Inc., Nygard NY Retail, LLC,
Nygard Properties Ltd., Nygard Enterprises Ltd.,
4093879 Canada Ltd., 4093887 Canada Ltd. and
Nygard International Partnership
and not in its personal or corporate capacity



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