

THE QUEEN'S BENCH
Winnipeg Centre

IN THE MATTER OF: THE APPOINTMENT OF A RECEIVER
PURSUANT TO SECTION 243 OF THE
BANKRUPTCY AND INSOLVENCY ACT,
R.S.C., C.B-3, AS AMENDED, AND SECTION 55
OF THE COURT OF QUEEN'S BENCH ACT,
C.C.S.M., C. C280, AS AMENDED

BETWEEN:

WHITE OAK COMMERCIAL FINANCE, LLC,

Applicant,

- and -

NYGARD HOLDINGS (USA) LIMITED, NYGARD INC., FASHION
VENTURES, INC., NYGARD NY RETAIL, LLC., NYGARD
ENTERPRISES LTD., NYGARD PROPERTIES LTD., 4093879
CANADA LTD., 4093887 CANADA LTD., and NYGARD
INTERNATIONAL PARTNERSHIP,

Respondents.

NOTICE OF MOTION

The Respondents will make a Motion before the Honourable Justice J. G. Edmond on Monday, December 20, 2021, at 10:00 a.m., or as soon after that time as the motion can be heard, at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba.

THE MOTION IS FOR:

1. An order authorizing \$1,150,000.00 to be paid from the proceeds from the sale of properties belonging to the respondent Nygard Properties Ltd. ("**NPL**") for legal fees and disbursements;

2. costs; and
3. such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. The Respondents NPL and Nygard Enterprises Limited (“**NEL**”) require funds in order to respond to the within receivership proceedings, including an anticipated appeal of the decision on substantial consolidation and bankruptcy to be rendered by this Court after a hearing scheduled for December 20, 2021.
2. Peter Nygard has been made subject to nine charges of unlawful confinement or sexual assault by the Toronto Police.
3. The charges all relate to events alleged to have taken place at 1 Niagara Street, Toronto, formerly a property belonging to NPL.
4. It is anticipated that NPL will become a defendant in a class action proceeding instituted in the United States against Nygard and various companies, among them NIP, which is grounded in allegations of sexual assault by Nygard.
5. Providing funds for the defence of the criminal case will benefit NPL and NIP in that if Nygard is convicted in the criminal proceedings, that will have a serious adverse effect on NPL in its defence of a civil claim, as a conviction would establish that the alleged acts of criminal misconduct had been committed by Mr. Nygard.

Further, the opportunity to cross-examine complainants in the criminal proceeding will benefit NPL and NIP in its defence of the civil claim.

6. And such further and other grounds as counsel may advise and this Honorable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. the affidavit of Brian H. Greenspan affirmed December 9, 2021; and
2. such further and other grounds as counsel may advise and this Honourable Court permit.

December 10, 2021

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