

THE KING'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, AN SECITON 55
OF THE COURT OF QUEEN'S ENCH 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.

FILED MAY 09 2023

NOTICE OF MOTION
HEARING: MONDAY MAY 15, 2023 AT 10:00 AM
BEFORE THE HONOURABLE MR. JUSTICE J. G. EDMOND

LEVENE TADMAN GOLUB LAW CORPORATION

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File No. 113885/WMO

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NOTICE OF MOTION

The Respondents will make a Motion before the Honourable Justice J. G. Edmond, on
Monday May 15, 2023 at 9:00a.m., or as soon after that time as the motion can be heard,
at the Law Courts Building, 408 York Avenue, Winnipeg, Manitoba.

THIS MOTION IS FOR:

1. An Order determining the quantum of reasonable legal fees, disbursements and professional costs incurred by the Respondents in the receivership proceedings.
2. An order authorizing the full payment of legal fees and disbursements and professional costs of the Respondents from the Net Receivership proceeds.
3. Such further and other relief as this Honorable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

4. In reasons for decisions delivered March 10, 2022, Justice Edmond granted the Respondents' motion to authorize or permit payment of the Respondents reasonable legal fees and disbursements and professional costs incurred and to be incurred in the Receivership Proceedings and to be incurred in the bankruptcy proceedings from the Preserved Proceeds and, if necessary, the Net Receivership proceeds.
5. Upon providing the statements of accounts encompassing September 2022 to April 2023, counsel for the Receiver disputed the invoiced quantum as being reasonable legal fees and disbursements and professional costs.
6. The Respondents' position is that the statements of accounts provided relate to the receivership and bankruptcy proceedings and are an accurate and reasonable assessment of the fees during the identified time.
7. 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:

8. The affidavit of Wayne Onchulenko affirmed May 9, 2023.
10. Such further and other documents as counsel may advise and this Honorable Court may permit.

Date: May 9, 2023

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