

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, 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.

AFFIDAVIT OF WAYNE ONCHULENKO
AFFIRMED this 12th day of May, 2023

LEVENE TADMAN GOLUB LAW CORPORATION

Barristers and Solicitors
700 - 330 St. Mary Avenue
Winnipeg, MB R3C 3Z5

WAYNE M. ONCHULENKO
Telephone No. (204) 957-6402
Fax No. (204) 957-1696
File No. 113885/WMO

QB BOX 105

THE KING'S BENCH
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CANADA LTD., 4093887 CANADA LTD., and NYGARD
INTERNATIONAL PARTNERSHIP,

Respondents.

AFFIDAVIT OF WAYNE ONCHULENKO

I, WAYNE ONCHULENKO, of the City of Winnipeg, in the Province of
Manitoba, Barrister and Solicitor, AFFIRM THAT:

1. I am Manitoba counsel for the Respondents herein and as such have personal knowledge of the facts and matters which are hereinafter deposed to by me, except where same are stated to be based on information and belief, in which I believe same to be true. I am a partner with the law firm of Levene Tadman Golub Law Corporation (LTGLC).
2. This is an Affidavit supplemental to my Affidavit affirmed May 9, 2023.

3. Attached to my Affidavit affirmed May 9, 2023 as Exhibits "I" to "M" were Statements of Account of Fred Tayar & Associates. The Statement of Account dated March 8, 2023 of Fred Tayar & Associates was missing from the exhibits and is attached hereto as Exhibit "A".
4. Attached hereto and marked as **Exhibit "B"** is an Affidavit of Fred Tayar, affirmed May 12, 2023, the original of which will be filed with the King's Bench under its own cover.
5. I have been actively involved in this matter. I have reviewed the LTGLC invoices and consider the time expended and legal fees charged to be fair and reasonable for the services performed, and either consistent with or below prevailing market rates for legal services of the nature involved in this proceeding. The LTGLC invoices reflect fees and disbursements at standard rates and charges.
6. I make this Affidavit *bona fide*.

AFFIRMED before me at the City of)
Winnipeg, in the Province of)
Manitoba this 12th day of May,)
2023.)



A Commissioner for Oaths in and
for the Province of Manitoba
My commission expires: March 6,
2024



WAYNE ONCHULENKO

In Account With:
FRED TAYAR & ASSOCIATES
PROFESSIONAL CORPORATION

This is Exhibit "A" referred to in the
Affidavit of WAYNE DUCHMENEK
sworn before me at Winnipeg, this DATE: March 8, 2023
day of May, 2023

Wayne Duchmerek
A Commissioner for Oaths in and
for the Province of Manitoba. My
commission expires March 6/24

Barristers & Solicitors
65 Queen St. West, Suite 1200
Toronto, Canada M5H 2M5

Telephone: (416) 363-1800
Facsimile: (416) 363-3356

HST Registration No. 847141454

PERSONAL & CONFIDENTIAL

Peter John Nygard
Nygard Holdings (USA) Limited, Nygard Inc.,
Fashion Ventures, Inc., Nygard NY Retail, LLC
4093879 Canada Ltd., 4093887 Canada Ltd.,
Nygard International Partnership, Nygard Properties Ltd., and
Nygard Enterprises Ltd. ("Nygard Group of Companies")
Gregory Alvin Fenske
369 River Road
Winnipeg, MB R2M 4A1

File No.20-3091

Re: Peter J. Nygard and Nygard Group of Companies - Receivership

TO PROFESSIONAL SERVICES rendered in connection with the above-noted matter from February 8, 2023 to February 28, 2023 as set out in the pre-bill attached.

OUR FEE:	\$1,200.00
HST (on fee and taxable disbursements only)	<u>156.00</u>
TOTAL AMOUNT OF THIS ACCOUNT	\$1,356.00
TRANSFERRED FROM TRUST	<u>1,356.00</u>
	NIL

THIS IS OUR STATEMENT OF ACCOUNT

FRED TAYAR & ASSOCIATES
PROFESSIONAL CORPORATION

Per: 

Fred Tayar
FT/mt
E. & O.E.

All persons and/or corporations named above are jointly and severally responsible for payment of this account.
Disbursements which are not posted at the time of preparation of this account will be billed at a later time. Accounts due when rendered. All amounts overdue 30 days or more will bear interest at the rate of 1.3% per annum as provided for in Section 138 of the Courts of Justice Act, pursuant to the Solicitors Act.

Peter Nygard
 c/o Gregory A. Fenske
 369 River Road
 Winnipeg, MB R2M 4A1

March 7, 2023

PREBILL

Attention:

File #: 20-3091
 Inv #: Sample

RE: Peter J. Nygard and Nygard Group of Companies - Financial Matters

10710

DATE	ENTRY #	DESCRIPTION	HOURS	AMOUNT	LAWYER
Feb-08-23	295063	correspondence from M. LaBossiere; multiple emails to and from LaBossiere regarding fees;	0.40	250.00	FT
Feb-09-23	295022	reading recent correspondence;	0.10	55.00	CL
Feb-10-23	295080	correspondence from W. Onchulenko and M. LaBossiere regarding fees matter;	0.30	187.50	FT
Feb-13-23	295211	correspondence to receiver re: reimbursement of fees;	0.20	105.00	MT
Feb-23-23	295270	correspondence from W. Onchulenko with exchange between him and B. Taylor concerning Shanghai building;	0.30	187.50	FT
Feb-24-23	295271	telephone attendance with W. Onchulenko concerning the Shanghai building and how to respond to B. Taylor;	0.30	187.50	FT
Feb-28-23	295350	correspondence from W. Onchulenko to B. Taylor;	0.10	62.50	FT
	295376	message for W. Onchulenko; telephone conversation with W. Onchulenko;	0.30	165.00	CL
Totals			2.00	\$1,200.00	
HST on Fees				\$156.00	

FEE SUMMARY:

Lawyer	Hours	Effective Rate	Amount
Fred Tayar	1.40	\$625.00	\$875.00
Colby Linthwaite	0.40	\$550.00	\$220.00
Mindy Tayar	0.20	\$525.00	\$105.00

Total Fees, Disbursements & HST

\$1,356.00

Total Tax: \$156.00

* tax-exempt

TRUST STATEMENT
(20-3091 – P. Nygard – Financial Matters)
(22-3153 – P. Nygard – General Matters)

Received e-transfer – October 19, 2020		\$34,982.50
Paid on account of Fred Tayar & Associates Professional Corporation dated November 3, 2020	\$34,982.50	
Received e-transfer – November 10, 2020		\$47,344.40
Paid on account of Fred Tayar & Associates Professional Corporation dated November 3, 2020	\$12,379.40	
Paid on account of Fred Tayar & Associates Professional Corporation dated November 23, 2020	\$34,965.00	
Received e-transfer from Levene Tadman Golub – March 31, 2021		\$114,806.65
Paid on account of Fred Tayar & Associates Professional Corporation dated November 23, 2020	\$46,463.87	
Paid on account of Fred Tayar & Associates Professional Corporation dated December 21, 2020	\$60,830.52	
Paid on account of Fred Tayar & Associates Professional Corporation dated February 25, 2021	\$7,512.26	
Received e-transfer from Levene Tadman Golub – May 12, 2021		\$99,982.50
Paid account of Fred Tayar & Associates Professional Corporation dated May 12, 2021	\$7,050.54	
Paid account of Fred Tayar & Associates Professional Corporation dated June 2, 2021	\$7,717.29	
Paid account of Fred Tayar & Associates Professional Corporation dated July 5, 2021	\$30,909.14	
Paid account of Fred Tayar & Associates Professional Corporation dated August 5, 2021	\$17,807.60	
Paid account of Fred Tayar & Associates Professional Corporation dated September 9, 2021	\$5,943.07	
Paid account of Fred Tayar & Associates Professional Corporation dated October 12, 2021	\$18,068.14	
Received from Levene Tadman Golub Law Corporation – October 26, 2021		\$50,000.00

TRUST STATEMENT
(20-3091 – P. Nygard – Financial Matters)
(22-3153 – P. Nygard – General Matters)

Paid account of Fred Tayar & Associates Professional Corporation dated November 3, 2021	\$44,648.20	
Received from Levene Tadman Gclub Law Corporation – December 7, 2021		\$50,000.00
Paid account of Fred Tayar & Associates Professional Corporation dated February 1, 2022	\$67,838.52	
Received from Barzee Flores Corporation – May 10, 2022		\$499,982.50
Paid account of Supreme Advocacy LLP dated June 7, 2022	\$1,734.55	
Paid account of Fred Tayar & Associates Professional Corporation dated May 11, 2022	\$74,604.85	
Paid account of Fred Tayar & Associates Professional Corporation dated June 16, 2022 (File #20-3091)	\$47,799.25	
Paid account of Fred Tayar & Associates Professional Corporation dated June 16, 2022 (File #22-3153)	\$34,444.10	
Paid account of Supreme Advocacy LLP dated July 12, 2022	\$3,169.65	
Paid account of Fred Tayar & Associates Professional Corporation dated July 12, 2022 (File #20-3091)	\$29,834.55	
Paid account of Fred Tayar & Associates Professional Corporation dated July 12, 2022 (File #22-3153)	\$33,403.89	
Paid account of Fred Tayar & Associates Professional Corporation dated August 11, 2022 (File #20-3091)	\$4,761.26	
Paid account of Fred Tayar & Associates Professional Corporation dated August 11, 2022 (File #22-3153)	\$15,169.69	
Paid account of Fred Tayar & Associates Professional Corporation dated September 7, 2022 (File #22-3153)	\$32,251.10	
Paid account of Fred Tayar & Associates Professional Corporation dated October 4, 2022 (File #22-3153)	\$8,133.75	
Paid account of Fred Tayar & Associates Professional Corporation dated October 4, 2022 (File #20-3091)	\$14,582.47	
Paid account of Fred Tayar & Associates Professional Corporation dated November 3, 2022 (File #22-3153)	\$15,490.61	

TRUST STATEMENT
(20-3091 – P. Nygard – Financial Matters)
(22-3153 – P. Nygard – General Matters)

Paid account of Fred Tayar & Associates Professional Corporation dated December 5, 2022 (File #22-3153)	\$31,701.59	
Paid account of Fred Tayar & Associates Professional Corporation dated December 6, 2022 (File #20-3091)	\$11,526.09	
Received from Levene Tadman Golub Law Corporation – January 4, 2023		\$219,507.95
Wire transfer to Greenspan Humphrey Weinstein LLP – January 5, 2023	\$200,050.00	
Paid account of Fred Tayar & Associates Professional Corporation dated February 1, 2022 (File #20-3091)	\$31,524.34	
Paid account of Fred Tayar & Associates Professional Corporation dated April 5, 2022 (File #20-3091)	\$32,410.33	
Paid account of Fred Tayar & Associates Professional Corporation dated September 7, 2022 (File #20-3091)	\$23,697.77	
Paid account of Fred Tayar & Associates Professional Corporation dated November 2, 2022 (File #20-3091)	\$33,422.90	
Paid account of Fred Tayar & Associates Professional Corporation dated February 2, 2023 (File #20-3091)	\$1,345.81	
Paid account of Fred Tayar & Associates Professional Corporation dated February 2, 2023 (File #22-3153)	\$11,297.34	
Received from Barzee Flores Corporation – February 7, 2023		\$30,982.50
Paid account of Fred Tayar & Associates Professional Corporation dated March 8, 2023 (File #22-3153)	\$8,725.93	
Paid account of Fred Tayar & Associates Professional Corporation dated March 8, 2023 (File #20-3091)	\$1,356.00	
 Balance Held in Trust	 \$48,035.13	
E. & O.E.	<u>\$1,147,589.00</u>	<u>\$1,147,589.00</u>

This is Exhibit "B" referred to in the Affidavit of WANE OCHULEMWA sworn before me at Winnipeg, this city of MAY 2023 12th

File No. CI 20-01-26627

[Signature]
A Commissioner for Oaths in and for the Province of Manitoba. My commission expires March/24

**THE QUEEN'S BENCH
Winnipeg Centre**

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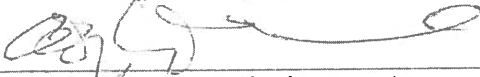
AFFIDAVIT OF FRED TAYAR
AFFIRMED this 12th day of May, 2023

I, **FRED TAYAR**, of the City of Toronto, in the Province of Ontario, barrister,
AFFIRM AND SAY:

1. I am a lawyer in the offices of the law firm of Fred Tayar & Associates Professional Corporation ("FTAPC") and as such have knowledge of the matters hereinafter deposed.

2. FTAPC are the Ontario lawyers of record for the respondents in this application.
3. On May 9, 2023, Wayne Onchulenko, a partner in Levene Tadman Golub Law Corporation, Manitoba counsel for the respondents, swore an affidavit in support of the within motion, to which he attached, as Exhibits "I" – "M", five statements of account rendered by FTAPC to the respondents (the "**Accounts**").
4. I have reviewed the Accounts and was involved in their preparation. The Accounts were rendered in respect of fees and disbursements incurred by this firm during this proceeding. A further account dated March 8, 2023 was inadvertently omitted by Mr. Onchulenko. I understand that he will rectify that omission today.
5. To the best of my knowledge, the rates charged by FTAPC throughout the course of this proceeding are comparable to, or less than, the rates charged by other law firms in the downtown Toronto market for the provision of similar services by lawyers of equivalent experience.

Affirmed before me at the City of
Toronto, in the Province of Ontario
this 12th day of May, 2023



A Commissioner, etc.
"Colby Linthwaite"

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FRED TAYAR