

**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.**

**AFFIDAVIT OF JOE ALBERT**

AFFIRMED this 5<sup>th</sup> day of November, 2020

**Paliare Roland Rosenberg Rothstein LLP**

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Toronto ON M5V 3H1

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**Lawyers for Albert Gelman Inc.**

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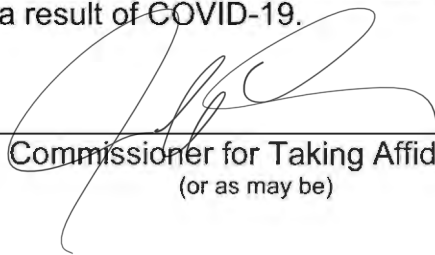
I, JOE ALBERT, of the City of Oakville, in the Province of Ontario, AFFIRM:

1. I am a principal of Albert Gelman Inc. ("AGI"), a Licensed Insolvency Trustee (a "LIT") and the proposed LIT in a Notice of Intention to Make a Proposal for certain of the Respondents.
2. Attached to my affidavit as **Exhibit "A"** is AGI's Pre-Filing Report (the "Report") prepared in connection with AGI's proposed role as LIT.

3. I believe the contents of the Report to be true, subject to the qualifications set out therein. To the extent I have relied on information and advice of others, I have identified the source of the information in the Report and believe that the information and advice to be true.

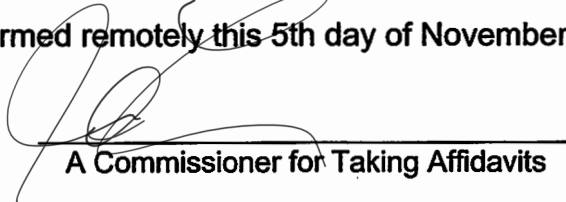
**AFFIRMED** remotely before me on this 5<sup>th</sup> day of November, 2020 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely

This affidavit was commissioned remotely as a result of COVID-19.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits  
(or as may be)

  
\_\_\_\_\_  
**JOE ALBERT**

This is **Exhibit "A"** referred to in  
the Affidavit of Joe Albert  
affirmed remotely this 5th day of November, 2020

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a solid horizontal line.

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A Commissioner for Taking Affidavits

**THE QUEEN'S BENCH**  
**Winnipeg Centre**

**IN THE MATTER OF THE RECEIVERSHIP OF NYGÅRD 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**

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**FIRST PRE-FILING REPORT OF ALBERT GELMAN INC.**

**In its Capacity as Proposed Proposal Trustee of some or all of Nygard International Partnership, Nygard Enterprises Ltd., Nygard Properties Ltd., 4093879 Canada Ltd. and 4093887 Canada Ltd.**

**(dated November 5, 2020)**

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## I. INTRODUCTION

1. Albert Gelman Inc. (“**AGI**”) is a Licensed Insolvency Trustee (“**LIT**”) and is filing this report (“**First Pre-Filing Report**”) in its capacity as consultant and proposed LIT in a Notice of Intention to make a Proposal (“**NOI**”) that, if permitted by the Court, will be filed by NIP, 879Co and 887Co (defined below).
2. Richter Advisory Group Inc. (the “**Receiver**”) was appointed as Receiver of the assets, undertakings and properties of Nygard International Partnership (“**NIP**”), Nygard Enterprises Ltd. (“**NEL**”), Nygard Properties Ltd. (“**NPL**”), 4093879 Canada Ltd. (“**879Co**”) and 4093887 Canada Ltd. (“**887Co**”) (collectively, the “**Canadian Debtors**”) as well as several other US entities (together with the Canadian Debtors the “**Respondents**”) pursuant to an order of the Court of Queen’s Bench (Winnipeg Centre) made in Court File No. CI 20-01-26627 on March 18, 2020 (the “**Appointment Date**”) (the “**Appointment Order**”).
3. On September 28, 2020, the Receiver brought a motion seeking approval of a document dissemination and destruction protocol (the “**Receiver First Motion**”). Part of this motion was subsequently adjourned and is now being heard on November 9 and 13, 2020.
4. On September 29, 2020 the Canadian Debtors made a motion to Court (the “**Respondent Motion**”) seeking an Order, *inter alia*, lifting the stay of proceedings granted in the Appointment Order for the purpose of permitting the Canadian Debtors, or a combination of them, to each file a NOI and to discharge the Receiver. This motion was subsequently adjourned and is now being heard on November 9 and 13, 2020.
5. On October 26, 2020 the Receiver brought a motion seeking approval of the sale of the Inkster Property (the “**Receiver Second Motion**”). The Receiver’s motion is being heard on November 9, 2020.
6. This First Pre-Filing Report has been prepared in respect of the Receiver First Motion, the Respondent Motion and the Receiver Second Motion.

## II. PURPOSE

7. AGI has prepared this First Pre-filing Report for the following purposes:
  - a. to assist the Court in making a determination with respect to the relief being sought in respect of the Respondents Motion and, in particular, the following:
    - i. a lifting of the stay of proceeding for the purpose of permitting the Canadian Debtors (or any combination of them) to file a NOI;
    - ii. discharge of the Receiver; and

- iii. opposition to approval of the sale of the Inkster Property and cessation of any further marketing and sales efforts with respect to the Broadway Property.
- b. to provide the Court with AGI's assessment of the current financial position and solvency or insolvency of each of the entities comprising the Canadian Debtors (the "**Financial Assessment**");
- c. to provide the Court with AGI's opinion with respect to which of the Canadian Debtors would likely be able to make a viable proposal to its creditors; and,
- d. to provide the Court with AGI's comments with respect to the Receiver's proposed sale of the Inkster Property and Broadway Property (collectively, the "**Real Properties**") and the impact that a sale of one or both of the Real Properties may have on the Canadian Debtors and their respective stakeholders.

### **III. SUMMARY OF AGI'S FINDINGS**

- 8. Set out below are AGI's findings which are discussed in more detail throughout this report.
  - a. NIP is insolvent and is in a position to make a viable Proposal to its creditors;
  - b. NPL is solvent, has no arm's length creditors, other than CRA, and has sufficient assets to discharge its liabilities to non-arm's length creditors. Accordingly, there is no need for the Inkster, Broadway or other properties owned by NPL to be sold to satisfy its unsecured creditors;
  - c. Neither the Inkster Property nor the Broadway Property needs to be sold to satisfy any obligation NPL has as guarantor under the Credit Agreement (defined below) as the Receiver estimates in its Ninth Report that more than sufficient proceeds have been generated to date to repay the Lenders, the Receiver's Charge, the Landlords' Charge and to fund the payment of Potential Priority Claims, with perhaps some "excess" remaining;
  - d. NEL is solvent if it is determined that NPL's loan due from NIP is secured (discussed in more detail later in this report); and,
  - e. 879Co and 887Co are each insolvent.

### **IV. TERMS OF REFERENCE**

- 9. While AGI has reviewed various documents provided by the parties named herein, such review does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Accounting Principles ("**GAAP**") or International Financial Reporting Standards

("IFRS") or otherwise. Accordingly, AGI expresses no opinion or other form of assurance pursuant to GAAP or IFRS or otherwise with respect to such information except as expressly stated herein.

10. This First Pre-Filing Report has been prepared solely for the purposes set out above. Accordingly, the reader is cautioned that this First Pre-Filing Report may not be appropriate for any other purpose. AGI will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this First Pre-Filing Report contrary to the provisions of this paragraph.
11. All capitalized terms not otherwise defined in this First Pre-Filing Report shall have the meaning ascribed to them in the Receiver's Seventh Report dated September 10, 2020 ("**Seventh Report**"), the Receiver's Eighth Report dated September 28, 2020 ("**Eighth Report**"), the Receiver's Supplementary Eighth Report dated October 12, 2020 (the "**Supplementary Eighth Report**") and the Receiver's Ninth Report dated November 2, 2020 (the "**Ninth Report**").
12. Unless otherwise noted, all monetary amounts referenced herein are in Canadian dollars.

#### **V. AGI'S ENGAGEMENT**

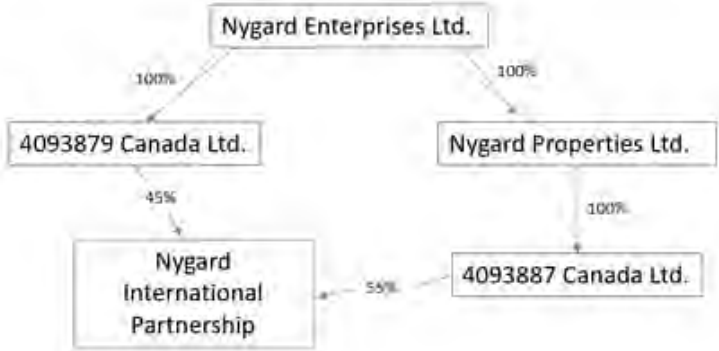
13. AGI was engaged by the Canadian Debtors on September 25, 2020 with the primary purpose of assessing the current financial situation of each of the Canadian Debtors and to advise their sole director, Gregory Fenske, of various options available to each of the Canadian Debtors including options pursuant to the *Bankruptcy and Insolvency Act* (Canada) ("**BIA**").
14. Subsequent to its appointment, representatives of AGI made a request to the Receiver for certain financial information and documents of the Canadian Debtors. In the Receiver's Supplementary Eighth Report at paragraph 25, the Receiver sets out the information requested by AGI (defined as the "AGI Request" in the Receiver's Supplementary Eighth Report).
15. On October 9, 2020, the Receiver provided AGI with access to a data room which contained some of the AGI Request documents. The Receiver populated the data room with additional documents throughout the course of the following week. Attached hereto as **Appendix "A"** is a schedule which summarizes the items which have been provided by the Receiver to AGI to date. AGI notes that the Receiver has provided AGI with most of the AGI Request documents and has provided those documents to AGI in a timely fashion. However, AGI has requested reformatted general ledger reports (the "**GL Report**") (which, for example, include the opening and closing balances for each general ledger account) for each of the Canadian Debtors for the previous five years. The Receiver has indicated that it is not able to provide the GL Report in the requested format. AGI advises that notwithstanding the absence of the detailed GL Reports, its Financial Assessment and ultimate findings and conclusions are not materially impacted.



16. The Receiver has advised AGI that the Nygard accounting staff continue to post post-Receivership transactions to the accounting records of Nygard.

**VI. CORPORATE STRUCTURE OF THE CANADIAN DEBTORS**

17. Set out below is the corporate structure of the Canadian Debtors.



**VII. CREDIT AGREEMENT**

18. The Respondents are parties to a credit agreement dated December 30, 2019 (“**Credit Agreement**”) with Second Avenue Capital, LLC as documentation agent and a lender and White Oak Commercial Finance, LLC (“**White Oak**”) (together with Second Avenue Capital, LLC, the “**Lenders**”) as the administrative agent, collateral agent and a lender.

19. Pursuant to the Credit Agreement each of the named “borrowers” is a US entity, being Nygard Holdings (USA) Limited (“**Holdings USA**”), Nygard Inc. (“**Nygart Inc.**”), Fashion Ventures, Inc. (“**Fashion Ventures**”), and Nygard NY Retail, LLC (“**NY Retail**”) (collectively, the “**US Debtors**”).

20. Also pursuant to the Credit Agreement, each of the Canadian Debtors is named as a “guarantor” of the Loan (defined below). NPL is a limited guarantor to a maximum of amount USD \$20 million. The Credit Agreement indicates that “[White Oak] agrees that its recourse against [NPL] pursuant to Mortgages on owned Real Estate of NPL shall be limited to a realized value after all costs and expenses, including enforcement costs of [USD]\$20,000,000”. As set out in more detail later in this report, the Receiver has sold real property owned by NPL and received proceed of approximately [CAD]\$19.6 million to date (without regard to the proposed sale of either the Inkster Property and/or the Broadway Property).

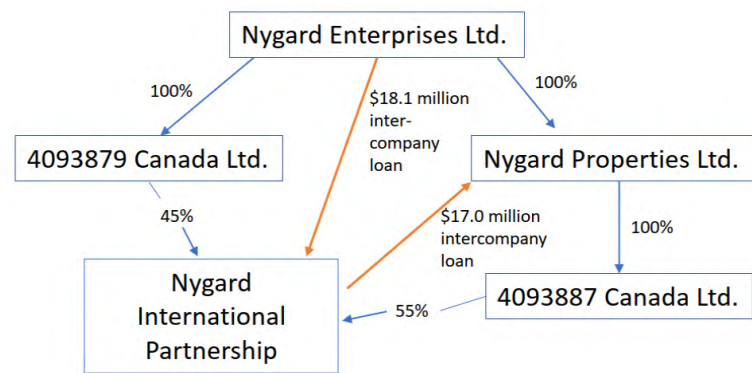
21. The current trial balance of NIP indicates that the loan advances of approximately \$34 million (the “**Loan**”) were advanced solely to NIP, notwithstanding the Credit Agreement referring to NIP as a guarantor rather than the borrower from the Lenders. This is evident since the Loan is not accounted for in the current trial balances of any of the US Debtors or the other Canadian Debtors, nor do the chart of accounts (that is, the

full listing of all general ledger accounts) of any of the other US Debtors or Canadian Debtors include an account for a loan from White Oak or any other arm's length lender.

22. The proper accounting treatment, in accordance with the terms of the Credit Agreement would be that one or more of the US Debtors, as borrowers, would account for the Loan in its records and that NIP would account for the receipt of the Loan as an intercompany payable due to the US Debtor(s)/borrower.

### VIII. INTERCOMPANY LOANS

23. Set out below is the corporate structure of the Canadian Debtors, including the current amount of the intercompany loans amongst NPL, NEL and NIP, as per their respective current trial balances.



24. As shown above, based on the current accounting records of the Canadian Debtors, NIP owes NPL approximately \$17 million and NEL owes NIP approximately \$18.1 million.
25. Based on AGI's review of the current accounting records of the Canadian Debtors, the intercompany loan of approximately \$17 million owing from NIP to NPL arose as follows:
- As at the Appointment Date NPL owed NIP approximately \$2.5 million;
  - During the receivership administration, the Receiver sold both the Notre Dame Property and the Niagara Property (collectively the "Sold Real Estate") which were both owned by NPL. As evidenced by the trial balance, the Receiver received aggregate proceeds of approximately \$19.6 million for the sale of the Sold Real Estate.
  - The Nygard accounting staff booked/recorded an intercompany loan receivable owed to NPL by NIP for the \$19.6 million of proceeds on the sale of the Sold Real Estate.
  - As a result, NPL is now owed approximately \$17.1 million from NIP (\$19.6 million from the sale proceeds of the Sold Real Estate less the \$2.5 million balance owed by NPL to NIP as at the Appointment Date).

26. The trial balance of NPL evidences that it did not receive any portion of the Loan from the Lenders.
27. Counsel for the Canadian Debtors takes the position that NPL, as a guarantor who satisfies the primary obligation under the loan, is entitled to a right of subrogation. AGI's independent counsel has advised it agrees with the above proposition of law. Furthermore, it is the position of counsel for the Canadian Debtors that the intercompany loan between NPL and NIP represents a secured claim of NPL over the remaining assets of NIP in the amount of approximately \$17,000,000.

### **Settlement of Intercompany Loans**

28. For the purpose of assessing the reasonableness of a proposal, it is important to understand how the intercompany claims of NIP, NEL and NPL will be addressed in a liquidation scenario. Set out below are two hypothetical examples of how these intercompany claims will be settled, which both illustrate that there will be an offset of intercompany claims amongst NIP, NEL and NPL, resulting in NIP retaining \$1.1 million.
  - a) Scenario 1: NPL's assets are used to pay a dividend to NEL. Let's assume for illustrative purposes that NPL raises \$18.1 million and that a dividend of \$18.1 million is paid from NPL to NEL. If NEL then turns around and pays NIP \$18.1 million, the intercompany loan between these entities would become nil. Assuming NPL's claim in NIP is secured, NIP would then pay NPL \$17 million, would retain \$1.1 million and the intercompany loan between these entities would become nil. The end result of the offset of claims is that NIP would retain \$1.1 million and NPL/NEL would retain a net balance of \$17 million.
  - b) Scenario 2: NPL's assets are used to pay a dividend to NEL. Lets assume for illustrative purposes that NPL raises \$10 million and that a dividend of \$10 million is paid from NPL to NEL. If NEL then turns around and pays NIP \$10 million, the intercompany loan between these entities would be reduced from \$18.1 million to \$8.1 million. Assuming NPL's claim in NIP is secured, NIP would then pay NPL \$10 million (the entire amount received from NEL) and would retain nil. The intercompany between NIP and NPL would be reduced to \$7 million and NPL would now be in a position to pay \$10 million to NEL (in the form an intercompany dividend). Of these funds, NEL would remit \$8.1 to NIP to settle its intercompany debt and NIP would then remit \$7 million to NPL to settle its intercompany debt. The end result of the offset of claims is that, again, NIP would retain \$1.1 million and NPL/NEL would retain a net balance in this scenario of \$9 million.
29. On the basis that NPL's loan due from NIP is secured, the offset of claims will always result in NIP retaining \$1.1 million in cash.
30. It is relevant to note that the above scenarios are predicated on the following assumptions:

- a) The claim of NPL against NIP is secured such that NIP can repay NPL in priority to its remaining unsecured creditors; and
- b) NPL is a solvent corporation such that it would be in compliance of the solvency provisions of the *The Corporation Act* (Manitoba) respecting payment of any dividends to NEL.

31. As set out later in this Report, AGI is of the opinion that NPL is solvent.

#### **IX. CURRENT FINANCIAL POSITION OF THE CANADIAN DEBTORS**

32. AGI's analysis of the financial position of each of the Canadian Debtors has been prepared as of October 3, 2020, being the date of the most recent trial balance reports of each of the Canadian Debtors that AGI has obtained from the Receiver. Copies of the October 3, 2020 trial balance reports of each of the entities comprising the Corporate Group are attached hereto as **Appendix "B"**.

33. For each of the Canadian Debtors AGI has prepared a schedule showing the book value of the assets and liabilities as presented on the current trial balance reports provided to AGI by the Receiver. Based on AGI's review of the accounting records as well as information provided by both the Receiver and the Nygard accounting staff, AGI has estimated the realizable value of each of the Canadian Debtors remaining assets as of October 2020 as follows:

## Nygard International Partnership ("NIP")

	<u>Book Value</u>	<u>Estimated Realizable Value</u>
<b>Assets</b>		
Cash	\$ 9,730,650	-
Accounts receivable	(2,744,025)	-
Prepays and Deposits	949,572	-
Intercompany - Nygard Inc.	6,653,619	-
Intercompany - "Nygard Holdings"	920,933	<i>unknown</i>
Intercompany - NEL	18,192,649	1,126,674
Intercompany - 879Co	307,141	<i>unknown</i>
Intercompany - 887Co	378,258	<i>unknown</i>
Inventory	6,224,880	-
Capital assets	5,264,208	-
Bank Re-Organization Costs	5,579,805	-
Investment in Zellers CR Brand	750,000	-
Investment in Nygard Properties (USA) Ltd.	11,596,793	<i>unknown</i>
Investment in Nygard Holdings (USA) Ltd.	8,119,501	-
Trademark - EHL	224,137	-
Intangible - Slims	7,310,000	-
<b>Total assets</b>	<b>\$ 79,458,120</b>	<b>1,126,674</b>
<b>Liabilities</b>		
Loan - Lenders	\$ (300,000)	-
Vouchers (trade accounts) payable	(3,741,934)	12,692,284
Accrued purchases	(10,844,534)	-
AQC - Revenue Reserve	21,731,083	-
Wages and benefits payable	2,315,978	<i>unknown</i>
Source deductions payable	294,371	-
HST /GST Payable	648,529	-
Gift cards payable	986,465	-
Income Taxes Current - Federal	921,114	-
Withholding tax payable	861,294	861,294
Intercompany - NPL	17,000,083	-
Intercompany - Nygard Barbados Ltd.	3,766,864	3,766,864
Loans - PJN	3,000,000	3,000,000
<b>Total liabilities</b>	<b>\$ 36,639,312</b>	<b>20,320,442</b>
<b>Net assets over liabilities</b>	<b>\$ 42,818,808</b>	<b>(19,193,768)</b>

### Assets

34. Cash: The Receiver has advised AGI that there is no material amount of cash in any of the bank accounts controlled by NIP. As set out in paragraph 115 of the Ninth Report, "the Receiver presently estimates that sufficient proceeds have been generated to date to repay the Lenders, the Receiver's Charge, the Landlords' Charge and to fund the payment of Potential Priority Claims, with perhaps some "excess" remaining."

35. Accounts receivable: AGI has been advised by the Receiver that it is unlikely that there are any collectible accounts receivable. AGI requested clarification as to why these receivable accounts are in a net “credit” (or negative) position. The Receiver’s response was as follows: “The AR subledger balance is comprised of the receivables in NIP and Nygard Inc but is kept on one subledger. The accounts receivable subledger that was provided in the dataroom remains unchanged since there have not been any material receipts since then.” Based on AGI’s review of the receivable subledger and taking into consideration the comments of the Receiver and the Nygard accounting staff, AGI anticipates that the realizable value of the accounts receivable, if any, is immaterial. Therefore, AGI has indicated in the chart above that the realizable value is nil.
36. Prepays and deposits: According to the Nygard accounting staff it is unlikely that any prepaid expenses or deposits will be refunded to NIP. Therefore, AGI has indicated in the chart above that the realizable value is nil.
37. Intercompany – Nygard Inc.: Nygard Inc. is a US Debtor subject to the receivership proceedings. AGI understand that all realizable assets of Nygard Inc. have been realized upon by the Receiver and, as a result, this investment has nil value.
38. Intercompany – “Nygard Holdings”: According to the Nygard accounting staff this general ledger account is “a combination of few Bahamian entities like Nygard Cay Resort Ltd, Nygard International (Bahamas) Retail Limited - RTL STR in Bahamas -, Nygard Holdings Limited and PJN personal expenses.” AGI requires additional information to make an assessment as to the realizable value of these items identified by the Nygard accounting staff and, therefore, has marked the realizable as “unknown” on the chart above.
39. Intercompany - NEL: The amount owing to NIP from NEL of approximately \$18.2 million (approximately \$18.1 million in the books and records of NEL) existed prior to the Appointment Date. If the intercompany loan due from NIP to NPL (in the amount of approximately \$17 million) is secured, which is the position of counsel to the Canadian Debtors, the maximum net realizable value of this loan available for NIP’s unsecured arm’s length creditors is approximately \$1.1 million as reflected in the chart above. Refer to the earlier section of this report which provides a more detailed discussion of this issue.
40. Intercompany – 879Co: The intercompany loan due from 879Co has been marked above as “unknown” given the uncertainty with respect to collectability. This loan amount is not material and does not impact AGI’s conclusions set out in this report.
41. Intercompany – 887Co: The intercompany loan due from 887Co has been marked above as “unknown” given the uncertainty with respect to collectability. This loan amount is not material and does not impact AGI’s conclusions set out in this report.

42. Inventory: AGI has been advised by the Receiver that all inventory has been realized upon by the Receiver. Therefore, AGI has indicated in the chart above that the realizable value is nil.
43. Capital assets: With respect to the general ledger capital assets accounts, AGI has been advised by the Receiver that it does not anticipate any further realizations. Therefore, AGI has indicated in the chart above that the realizable value is nil.
44. Bank Re-Organization Costs: The Nygard accounting staff have advised that this balance of approximately \$5.6 million represents “unamortized loan costs which are not recoverable”. Therefore, there is no realizable value and AGI has indicated in the chart above a realizable value of nil.
45. Investment in Zellers CR Brand: The Receiver has sold all brands and trademarks which have a realizable value. Therefore, there is no realizable value remaining.
46. Investment in Nygard Properties (USA) Ltd.: AGI has not been provided with documents to establish the nature of this general ledger item. Accordingly, AGI has indicated in the chart above that the realizable value is unknown.
47. Investment in Nygard Holdings (USA) Ltd.: Nygard Holdings (USA) Inc. is a US Debtor subject to these receivership proceedings. AGI understands that any/all realizable assets of Nygard Holdings (USA) Inc. have been realized upon by the Receiver and, as a result, this investment has nil value.
48. Trademark - EHL: The Receiver has realized on all brands and trademarks which have a realizable value. Therefore, there is no realizable value remaining.
49. Intangible - Slims: The Receiver has sold all brands and trademarks which have a realizable value. Therefore, there is no realizable value remaining.

#### Liabilities

50. According to a personal properties security registration searches included as Exhibit “N” to the Dean Affidavit, both Bank of Montreal (“**BMO**”) and White Oak have registered financing statements against NIP in Ontario and Manitoba. BMO is not a creditor of NIP according to its current trial balance. The White Oak general ledger accounts are discussed in the following paragraph. AGI notes that NIP is a guarantor of the Loan according to the Credit Agreement.
51. Loan – Lenders: AGI has been advised that this general ledger account represents the loan payable to the Lenders. As at October 3, 2020 general ledger showed that the loan had been overpaid by \$300,000.
52. Vouchers (trade accounts) payable: Nygard accounting staff have advised AGI that these general ledger accounts are the “main AP account[s]”. These payable accounts are in a net “debit” (or positive) position, however, the Receiver has provided AGI with an aged accounts payable summary as of October 9, 2020

which indicates that approximately \$12.7 million is owing to trade creditors. Based on the responses from the Nygard accounting staff and the Receiver, AGI understand that the current trade accounts payable balance is approximately \$12.7 million which AGI has presented in the chart above.

53. Accrued purchases: Nygard accounting staff have advised AGI that these general ledger accounts “are generally purchase orders that [NIP] has not received invoices for”. The Nygard accounting staff have not advised AGI why these payable accounts are in a net “debit” (or positive) even though they are liability accounts. At this time, based on the information that AGI has received, AGI has valued this liability as nil.
54. AQC – Revenue Reserve: Nygard accounting staff have advised AGI that “AQC is a very old Company practice (30+ years old) and relates to assessing penalties due back from vendors to reduce the AP balances, however many vendors contest that is not actually enforceable.” The Nygard accounting staff’s explanation is consistent with Mr. Fenske’s understanding of this account. AGI has estimated that this liability is nil.
55. Wages and benefits payable: AGI has been advised by the Receiver that they are holding funds in reserve to pay all priority payables including wages owing to the former employees of NIP. Therefore, this liability will (at least partially) be paid using the funds currently in the hands of the Receiver. As a result, AGI anticipates that the liability will be less than the amount shown on the trial balance (and presented in the summary above). However, because AGI cannot determine the quantum of the liability it has been presented above as “unknown”.
56. Source deductions payable: AGI has been advised by the Receiver that they are holding funds in reserve to pay all priority payables of NIP. Therefore, this liability will be paid using the funds currently in the hands of the Receiver. As a result, this liability has been presented above as nil.
57. HST/GST Payable: AGI has been advised by the Receiver that they are holding funds in reserve to pay all priority payables of NIP.
58. Gift cards payable: The Nygard accounting staff have advised AGI that “Customer gift cards are typically balances ranging from \$20 to \$50. The average balance owing to our customers is about \$25. There is a list by card#, but would not include the customer information in most cases.” AGI believes that the process to identify each of the holders of a gift card is not practical in the circumstances and accordingly, this liability has been presented above as nil.
59. Income taxes current – Federal: The Nygard accounting staff have advised AGI that at year end the company would book an income tax provision that would later be allocated [to the partners] although that allocation was not made yet this year. AGI understands that the tax liability, if any, should be presented in



the accounting records of the partners, being 887Co and 879Co., which is discussed later in this report. As a result, AGI has presented the liability above as nil.

60. Withholding tax payable: The Nygard accounting staff have advised AGI that these accounts are either “subject to set-off” or “difficult to follow”. Accordingly, AGI has included this potential liability in its summary above.
61. Intercompany – NPL: As described above, it is the position of the Canadian Debtors that the loan receivable owing to NPL is secured. AGI has presented the liability as nil and the receivable in NIP as approximately \$1.1 million. Refer to the earlier section of this report for a more detailed discussion of this issue.
62. Intercompany – Nygard Barbados Ltd.: This liability represents a loan due to Nygard Barbados Ltd. in the amount of approximately \$3.7 million which was owing as of the Appointment Date and, as a result, AGI has included this liability in the chart above.
63. Loans – PJN: This liability represents a loan due to Peter Nygard which was owing as of the Appointment Date and, as a result, AGI has included this liability in the chart above.
64. NIP is a defendant in the Class Action. This contingent claim is not presented in the schedule above as neither the liability nor the quantum has been determined.

#### Solvency

65. Based on the above analysis, AGI has concluded that NIP is insolvent.

#### **4093879 Canada Ltd. (“879Co”)**

66. As set out in the corporate chart of the Canadian Debtors presented above, 879Co is one of the two partners of NIP. 879Co is wholly owned by NEL.

	<u>Book Value</u>	<u>Estimated Realizable Value</u>
Assets:		
Investment in NIP	\$ 41,961,694	-
Total assets	<u>\$ 41,961,694</u>	<u>-</u>
Liabilities:		
Due to NEL	\$ 908,911	908,911
Due to NIP	307,141	307,141
Income Taxes Payable	2,278,296	-
Total liabilities	<u>\$ 3,494,348</u>	<u>1,216,052</u>
Net assets over liabilities	<u>\$ 38,467,346</u>	<u>(1,216,052)</u>

### Assets

67. Investment in NIP: The current trial balance of 879Co shows that the only asset of 879Co is its partnership interest in NIP. Given that AGI has concluded above that NIP is insolvent, 879Co's partnership interest in NIP has no realizable value.

### Liabilities

68. According to a personal properties security registration search conducted by counsel to the Canadian Debtor on October 16, 2020 both Bank of Montreal ("**BMO**") and White Oak have registered financing statements against 879Co. Neither BMO nor White Oak are creditors of 879Co according to its current trial balance. AGI notes that 879Co is a guarantor of the Loan according to the Credit Agreement.
69. Due to NEL: The intercompany loan due to NEL of approximately \$900,000 will likely not be repaid to NEL given that 879Co has no assets to fund the repayment. Further, whether this loan is or is not repaid is immaterial to NEL's financial position and, therefore, does not impact AGI's conclusions set out in this report.
70. Due to NIP: The intercompany loan due to NIP of approximately \$300,000 will likely not be repaid to NIP given that 879Co has no assets to fund the repayment. Further, whether this loan is or is not repaid is immaterial to NIP's financial position and, therefore, does not impact AGI's conclusions set out in this report.
71. Income taxes payable: The Nygard accounting staff have advised AGI that "The taxes payable amounts in [879Co] represent accumulated balances and include tax provisions and payments from previous years. The 2020 returns have not yet been filed". The Receiver provided AGI with a corporate income tax assessment for 879Co dated November 25, 2019 for the fiscal year ended January 31, 2019 which shows

a corporate income tax liability of \$nil. No income taxes will be owing for the fiscal years ended January 31, 2020 and 2021 as NIP has been operating at a loss in those years. As noted above, the Nygard accounting staff advised AGI that for the fiscal year ended January 31, 2020 a corporate income tax return was not filed. This return is overdue. Based on the information provided by the Nygard accounting staff, the Receiver and AGI's review of historical corporate tax returns, AGI has estimated that the actual tax liability is nil for the period up to January 31, 2019. Further, given the significant accumulated tax losses of 879Co AGI anticipates that the income tax payable, if any, by 879Co for the fiscal year ended January 31, 2020 will be offset against these historical losses. Therefore, this liability has been presented above as nil.

### Solvency

72. Based on the above analysis, AGI has concluded that that 879Co is insolvent.

### **4093887 Canada Ltd. ("887Co")**

73. As set out in the corporate chart of the Canadian Debtors presented above, 887Co is one of the two corporate partners of NIP.

	<u>Book Value</u>	<u>Estimated Realizable Value</u>
Assets		
Investment in NIP	\$ 57,583,332	-
Due from NPL	251,076	251,076
Total assets	<u>\$ 57,834,408</u>	<u>251,076</u>
Liabilities		
Due to NIP	\$ 378,258	378,258
Income Taxes Payable	2,829,419	-
Total liabilities	<u>\$ 3,207,677</u>	<u>378,258</u>
Net assets over liabilities	<u>\$ 54,626,731</u>	<u>(127,182)</u>

### Assets

74. Investment in NIP: Based upon AGI's analysis of the financial position of NIP set out above, AGI has concluded that 887Co's partnership interest in NIP has no realizable value.

75. Due from NPL: AGI concludes below that NPL is solvent and, therefore, the loan due from NPL is likely fully collectible by 887Co.

### Liabilities

76. According to a personal properties security registration search conducted by counsel to the Canadian Debtor on October 16, 2020 both BMO and White Oak have registered financing statements against

887Co. Neither BMO nor White Oak are creditors of 887Co according to its current trial balance. AGI notes that 887Co is a guarantor of the Loan according to the Credit Agreement.

77. Due to NIP: The intercompany loan due to NIP of approximately \$380,000 will likely only be partially repaid to NIP by 887Co given that it does not have sufficient assets to fund the full repayment. Further, whether this loan is or is not repaid is immaterial to NIP's financial position and, therefore, does not impact AGI's conclusions set out in this report.
78. Income taxes payable: The Nygard accounting staff have advise AGI that "The taxes payable amounts in [887Co] represent accumulated balances and include tax provisions and payments from previous years. The 2020 returns have not yet been filed". The Receiver provided AGI with a corporate income tax assessment for 887Co dated November 25, 2019 for the fiscal year ended January 31, 2019 which shows a corporate income tax liability of \$nil. This does not include any corporate income tax which may be owing for the fiscal years ended January 31, 2020 and 2021. As noted above, the Nygard accounting staff advised AGI that for the fiscal year ended January 31, 2020, a corporate income tax return was not filed. This return is overdue. Based on the information provided by the Nygard accounting staff, the Receiver and AGI's review of historical corporate tax returns, AGI has determined that the actual tax liability is nil for the period up to January 31, 2019. Further, given the significant accumulated tax losses of 887Co, AGI anticipates that the income tax payable, if any, by 887Co for the fiscal year ended January 31, 2020 will be offset against these historical losses. Therefore, this liability has been presented above as nil.

#### Solvency

79. Based on the above analysis, AGI has concluded that 887Co is insolvent.

#### **Nygar Properties Ltd. ("NPL")**

80. As set out in the corporate chart of the Canadian Debtors presented above, NPL is wholly owned by NEL.

	<u>Book Value</u>	<u>Estimated Realizable Value</u>
<b>Assets</b>		
Due from NIP	\$ 17,137,641	-
Land and Buildings	2,747,720	11,630,000
Long Term Loans	786,105	<i>unknown</i>
Pre-Paid Property Tax	10,723	-
Investment in 887Co	46,453,922	-
Inventory	8,690,211	-
Due from Nygard Business Consultancy (Shanghai) Co. Ltd.	2,038,864	-
Investment in Nygard Business Consulting (Shanghai) Co. Ltd.	3,241,249	-
<b>Total assets</b>	<b>\$ 81,106,436</b>	<b>11,630,000</b>
<b>Liabilities</b>		
Due to 887Co	210,332	210,332
Due to Hikka Estate	159,908	159,908
Taxes Payable - 2019	(798,517)	54,683
Future Income Taxes Payable on Sales of Land and Buildings	-	<i>unknown</i>
<b>Total liabilities</b>	<b>\$ (428,277)</b>	<b>424,923</b>
<b>Net assets over liabilities</b>	<b>\$ 81,534,713</b>	<b>11,205,077</b>

#### Assets – Real Property

81. NPL is a holding company. During its administration of the receivership the Receiver sold both the Notre Dame Property and the Niagara Property, both of which were owned by NPL. Based on AGI's review of the accounting records it appears that the aggregate net proceeds from the sale of these properties was approximately \$19.6 million.
82. As of the date of this report, NPL's interests in real property are as follows:
- a. the Inkster Property – 100% (estimated market value of \$8.5 million);
  - b. the Broadway Property – 100% (estimated market value of \$2.7 million);
  - c. 40 Fieldstone Dr., Woodbridge, Ontario (PIN: 03288-1174) (the "**Woodbridge Property**") – 100% (estimated market value of \$900,000);
  - d. lease interest in certain Crown lands located on Falcon Lake in Manitoba (estimated value \$800,000);
- (collectively, the "**NPL Real Properties**")
83. The only NPL Real Properties which are encumbered are "c" and "d" in the aggregate amount of \$1 million which arose from the court approved E/B Settlement.

84. The estimated market values noted above were provided to AGI by Mr. Fenske. The estimated aggregate net equity of \$11.9 million has not been reduced by the notional selling costs and income taxes which would be generated by a sale.
85. AGI has not yet had the opportunity to obtain a certified appraisal of each of the NPL Real Properties which would assist AGI in determining both the current market value and the highest and best use for each.
86. As noted above, the purpose of the Receiver Second Motion, is to seek Court approval to accept the offer on the Inkster Property. AGI understands that the Receiver has received an offer with respect to the Broadway Property.
87. AGI understands that certain IT servers and records of the Respondents are located at the Inkster Property. NPL did not otherwise have any involvement in the business operations of the other Canadian Debtors or US Debtors other than as landlord.

#### Assets - Other

88. Due from NIP: As described above, it is the position of the Canadian Debtors that the loan receivable owing from NIP to NPL is secured. As a result of the offset of claims between NIP, NPL and NEL, AGI has presented the asset as nil and the receivable in NIP (which is due from NEL) as approximately \$1.1 million. Refer to the earlier section of this report for a more detailed discussion of this issue.
89. Long-Term Loan: AGI is advised by the Nygard accounting staff that the Long Term Loans of \$786,105 are due from a former senior executive of NIP. AGI does not have sufficient information to assess the collectability of this loan as at the date of this report.
90. Investment in 887Co: As set out earlier in this report, 887Co is insolvent and, as a result, NPL's investment in 887Co has no realizable value.
91. Inventory: AGI has been advised by the Receiver that all inventory has been realized upon by the Receiver.
92. Due from and investment in AGI Nygard Business Consultancy (Shanghai) Co. Ltd. ("Nygard Shanghai"): The loan amount of approximately \$2 million represents funds originally loaned to Nygard Shanghai to fund the initial build-out of a building located in Shanghai, China (the "**Shanghai Building**"). AGI is advised by Mr. Fenske that the Chinese government has seized control the Shanghai Building as a result of money owing by Nygard Shanghai to its former employees. Pursuant to the Affidavit of Greg Fenske sworn November 5, 2020, he assesses that the loan due from and the investment in Nygard Shanghai have no realizable value.

## Liabilities

93. According to a personal properties security registration search conducted by counsel to the Canadian Debtors on October 16, 2020 White Oak registered a financing statement against NPL. White Oak is no longer a creditor of NPL.
94. Due to 887Co: NPL has sufficient assets to fund a full repayment of this loan to 887Co.
95. Due to Hikka Estate: Represents a loan owing to a related party. NPL has sufficient assets to fund a full repayment of this loan.
96. Corporate income taxes payable: The Receiver provided AGI with a corporate income tax assessment for NPL dated December 3, 2019 for the fiscal year ended May 31, 2019 which shows a corporate income tax liability of \$54,683. This amount does not include any corporate income tax which may be owing for the fiscal year ended May 31, 2020. AGI has been advised by the Nygard accounting staff that for the fiscal year ended May 31, 2020 no corporate income tax return has been filed. This return is due November 30, 2020. NPL's 2019 tax return set out that instalments totalling \$300,335 need to be paid for the 2020 tax year based upon NPL's tax liability for 2019. AGI cannot determine the amount of tax instalments made by NPL. Accordingly, until such time as the corporate income tax return for the fiscal year ended May 31, 2020 is prepared and filed, the corporate income taxes owing, if any, cannot be determined.
97. Future Corporate Income Taxes Payable: The sale of the Notre Dame Property and Niagara Property will result in a tax liability for NPL which will become due and payable once NPL prepares and files its fiscal year ended May 31, 2021 corporate income tax return. AGI has not estimated the quantum of the tax liabilities as certain accounting and tax information in respect of the sales (which information AGI understands is still the subject of sealing Orders) is not available to AGI in order to do so.

## Solvency

98. Based on the above analysis, AGI has concluded that NPL is solvent, even after paying approximately \$19.6 million under its guarantee to White Oak.

## **Nygaard Enterprises Ltd. ("NEL")**

99. As set out in the corporate chart of the Canadian Debtors presented above, NEL is the parent company of the Canadian Debtors.
100. NEL did not have any involvement in the business operations of the other Canadian Debtors or US Debtors. NEL does not have any liabilities to any trade or other creditors of any of the Canadian Debtors or the US Debtors, except a claim for contribution by its subsidiary NPL (having guaranteed the White Oak Loan).

	<b>Book Value</b>	<b>Estimated Realizable Value</b>
<b>Assets</b>		
Investment in NPL	\$ 764,522	11,205,077
Due from Shareholder	8,400	8,400
Intercompany loan - 879Co	689,416	<i>unknown</i>
Investment in 879Co	37,568,622	-
Tax Instalments (prepaid)	126,807	-
Prepaid and miscellaneous	24,997	-
Ameriprise Mutual Funds and Investments (net of margin)	7,475,051	<i>unknown</i>
Investment Anchor Free	207,707	<i>unknown</i>
Miscellaneous Investments	128,868	<i>unknown</i>
<b>Total assets</b>	<b>\$ 46,994,390</b>	<b>11,213,477</b>
<b>Liabilities</b>		
Intercompany loan - NIP	18,126,757	1,126,674
Intercompany accruals	30,000	30,000
<b>Total liabilities</b>	<b>\$ 18,156,757</b>	<b>1,156,674</b>
<b>Net assets over liabilities</b>	<b>\$ 28,837,633</b>	<b>10,056,803</b>

### Assets

101. Investment in NPL: NEL is a holding company which wholly owns NPL and 879Co. The value of NEL's investment in NPL does have substantial value, however, for the reasons stated above in the section dealing with NPL, the quantum is uncertain/unknown at this time. The value of NEL's partnership interest in 879Co is \$nil given that 879Co is insolvent.
102. Due from Shareholder: Represents an amount due from Peter Nygard.
103. Intercompany loan – 879Co: The intercompany loan due from 879Co has been marked above as "unknown". This loan amount, whether realizable or not, is not material and does not impact AGI's conclusions set out in this report.
104. Investment in 879Co: As set out earlier in this report, 879Co is insolvent and, as a result, NEL's investment in 879Co has no realizable value.
105. Tax instalments (prepaid): This balance sheet item is immaterial and, therefore, was not reviewed by AGI.
106. Prepaid and miscellaneous: This balance sheet item is immaterial and, therefore, was not reviewed by AGI.
107. Ameriprise Mutual Funds / Investment Anchor Free / Miscellaneous Investments: AGI has been advised by Mr. Fenske that Ameriprise was the investment adviser of NEL in 2017. The monies in this account were transferred to Stifel in 2018. Most of its value was lost through devaluation of the shares held in the retail



industry and the balance was expended on professionals, consultants and business expenses including insurance costs.

#### Liabilities

108. According to a personal properties security registration search conducted by counsel to the Canadian Debtors on October 16, 2020 White Oak registered a financing statement. White Oak is not a creditor of NEL according to its current trial balance. AGI notes that NEL is a guarantor of the Loan according to the Credit Agreement.
109. Intercompany loan – NIP: The amount owing to NIP from NEL of approximately \$18.1 million (approximately \$18.2 million in the books and records of NIP) existed prior to the Appointment Date. If it is determined that the intercompany loan due from NIP to NPL (in the amount of approximately \$17 million) is secured, the maximum net realizable value of this loan available to NIP from NPL/NEL is approximately \$1.1 million as reflected in the chart above. Reference should be made to the earlier section of this report which provides a more detailed discussion of this issue.
110. Intercompany accruals: This balance sheet item is immaterial and, therefore, was not reviewed by AGI.

#### Solvency

111. Based upon the above analysis, AGI has concluded that NEL is solvent, assuming it is determined that NPL's loan due from NIP is secured

### **X. RECEIVER'S CURRENT FINANCIAL POSITION**

112. According to paragraph 115 of the Ninth Report, the Receiver estimates that it currently has sufficient funds to fully repay the Lenders, priority claims and costs of the Receivership administration without a sale of the either the Inkster Property and Broadway Property.

### **XI. AGI'S COMMENTS ON RECEIVER'S NINTH REPORT**

113. Starting at paragraph 110 of the Ninth Report, the Receiver sets out the matters which, in the Receiver's view, should be considered by the Manitoba Court in determining whether to grant the Canadian Debtors request to lift the stay of proceedings to accommodate an NOI Alternative or other alternative. The matters which the Receiver raises can generally be categorized as follows:
- a) the need for a determination of accurate intercompany balances; and
  - b) whether the assets and obligations to creditors will be treated on a consolidated basis or separately.
114. Set out below is AGI's analysis and comments with respect to these matters.

### Determination of Accurate Intercompany Balances

115. The Receiver states at paragraph 117 of its Ninth Report that “even a complex accounting review may not be sufficient to properly and fairly sort out the intercompany balances.” AGI has completed a preliminary review of the intercompany balances and is confident that the balances owing amongst the Canadian Debtors can be reasonably determined.
116. The largest of the intercompany loan accounts are: (i) approximately \$18.1 million owed by NEL to NIP; and, (ii) approximately 17.0 million owing from NIP to NPL. There are no other materially relevant intercompany accounts in either NPL or NEL.
117. The starting point for a determination of the accuracy of the intercompany accounts is the combined (or consolidated) financial statements audited by Ernst & Young for the fiscal year ended January 31, 2018. Given that NEL and NPL are not part of the consolidated group, Ernst & Young must have been satisfied that as at January 31, 2018 these intercompany accounts were not materially misstated. Subsequent to January 31, 2018 there are a limited number (in each case less than 10) of material transactions between NIP, NPL and NEL.
118. Although AGI has not conducted a comprehensive review of the material intercompany transactions from January 31, 2018 to date it is AGI’s opinion that the scope of work required to complete such a review is reasonably achievable.

### Whether the Assets and Obligations to Creditors will be Treated on a Consolidated Basis or Separately

119. At paragraph 133 of the Ninth Report, the Receiver states that the Manitoba Court may consider ordering the assignment of the Debtors into bankruptcy on a “consolidated basis”. The Receiver sets out at paragraph 115 of its Ninth Report its reasoning.

*“If Debtors such as NIP and NPL are to be treated as separate entities for creditor purposes, the matter of assessing what receivership proceeds of what entity ought fairly to be used to repay which debt, and, as a result, which entity (and its separate creditors) might fairly be considered to “be entitled” to any “excess”, is complicated and requires a complicated process of “allocation” (likely subject to Manitoba Court Order) of proceeds and costs that has not been undertaken, and which ought fairly to take into consideration the value of (and proceeds from) the Inkster Property and the Broadway Property”*

120. AGI is of the opinion that a consolidated liquidation process which includes NPL and NEL is not necessary or appropriate for the reasons set out below.

### *Receiver's Allocation of Asset Realizations and Costs*

121. The Loan proceeds were advanced solely to NIP. NIP utilized the funds to repay a loan owing by it to BMO and fund its working capital. It follows that all realizations from the assets of NIP would be applied by the Receiver as payment of the primary debt owed to White Oaks. Accordingly, NIP has no cross claim against NPL, NEL or any of the other Debtors by virtue of also being a guarantor under the Credit Agreement.
122. The Receiver has not yet prepared an allocation of the proceeds and costs of the Receivership that related to NIP, NPL or any of the other Debtors.
123. The Receiver states at paragraph 115 of its Ninth Report that to do so would be "complicated" and for this reason a consolidation should be considered. AGI agrees that an allocation needs to be done by the Receiver. However, AGI believes a fair allocation should not be complicated to prepare. Accordingly, there is no reason to consolidate the Debtors, or any combination of them, on the basis that the allocation of proceeds and costs of the receivership may be "complicated". The issue of allocation of proceeds and costs in a receivership is common.

### *Creditors of NIP, NPL and NEL*

124. Each of these entities accounts separately for their respective accounts payable. As at the Appointment Date, both NPL and NEL had no material arm's length creditors. NIP is the operating entity and has approximately \$12.6 million of trade creditors. A consolidated liquidation process which includes NEL and NPL would result in the assets of these two solvent entities being liquidated to pay the creditors of NIP, an insolvent entity.
125. In conclusion, AGI is of the opinion that a consolidated liquidation process which includes NPL and NEL is not necessary or appropriate for the reasons set out above

## **XII. NOI / PROPOSAL FILINGS – CANADIAN DEBTORS**

126. The Canadian Debtors are seeking leave of the Court for NIP, 879Co and 887Co to each file Notices of Intention to make a Proposal ("**NOI**").
127. NIP is insolvent and its creditors would likely benefit from the filing of an NOI / Proposal for reasons set out in paragraphs 131 to 134 of this report.
128. Both 879Co and 887Co are insolvent. As partners of NIP both are both liable for the debts of NIP. Accordingly, it is necessary that both 879Co and 887Co file NOIs/Proposals concurrently with NIP.

129. AGI has concluded, subject to the discussion and assumptions set out above, that NPL and NEL are both solvent and, accordingly, do not require a proposal process under the BIA.

#### Proposed Terms of Proposal

130. Pursuant to the Affidavit of Mr. Fenske dated November 5, 2020, the general terms of the proposal contemplated will include the following:
- a. a payment of \$1,100,000.00, from NEL to NIP, as part of a settlement between NIP, NEL and NPL whereby NIP's debt to NPL will be extinguished and NEL's debt to NIP will be extinguished, as explained in the report of AGI;
  - b. a (gratuitous) payment of \$1,000,000 from NPL; and,
  - c. a further payment equal to the fair market value of the remaining assets of NIP, as to be valued by the proposal Trustee in its report to unsecured creditors.

#### AGI'S Opinion

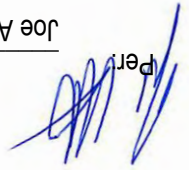
131. AGI is of the opinion that NIP, 879Co and 887Co are likely to be able to file viable proposals to their creditors.
132. The filing by NIP, 879Co and 887Co of an NOI/Proposal will allow for an efficient and fair claims process under the BIA for creditors. In addition, it will provide for a process for the Proposal Trustee to make an adequate assessment of business and financial affairs of NIP, 879Co and 887Co and report to the creditor on same.
133. An NOI/Proposal process allows unsecured creditors to determine whether a proposal will be accepted or whether they would prefer a liquidation through a bankruptcy process. Further, it provides a forum for creditors to negotiate for a proposal which they consider to be better than a bankruptcy.
134. The NOI/Proposal process also allows for a further appraisal and investigation of the affairs and property of the debtor by the creditors if they so choose.

### **XIII. CONCLUSIONS**

135. Based on its review and analysis of the information provided to date, AGI's conclusions are as follows:
- a. NIP is insolvent and is in a position to make a viable Proposal to its creditors;
  - b. 879Co and 887Co are each insolvent;
  - c. NPL is solvent;
  - d. If the loan owing from NIP to NPL is secured, then NEL is solvent.

All of which is respectfully submitted this 5th day of November 2020

**ALBERT GELMAN INC., solely in its capacity as Proposed  
Proposal Trustee of some or all of Nygard International Partnership, Nygard Enterprises Ltd.,  
Nygard Properties Ltd., 4093879 Canada Ltd. and 4093887 Canada Ltd.  
and not in its personal or any other capacity**



\_\_\_\_\_  
Joe Albert, CPA, DIFA, LIT

**Nygard Group of Companies - Canadian Entities**  
**The "Gelman" Document Request**

Received	√
Receiver currently unsure if available / currently locating	TBD
Currently under review by the Receiver	Review

	Nygard Enterprises Ltd	4093879 Canada Ltd	4093887 Canada Ltd	Nygard Properties Ltd	Nygard International Partnership
(a) Chart of Accounts	√	√	√	√	√
(b) Detailed Trial Balance - current	√	√	√	√	√
(c) Detailed Trial Balance - 2020	√	√	√	√	√
(c) Detailed Trial Balance - 2019	√	√	√	√	√
(c) Detailed Trial Balance - 2018	√	√	√	√	√
(c) Detailed Trial Balance - 2017	√	√	√	√	√
(c) Detailed Trial Balance - 2016	√				
(d) Corporate Tax Return - 2020	N/A (note 2)	N/A (note 2)	N/A (note 2)	N/A (note 2)	N/A (note 2)
(d) Corporate Tax Return - 2019		√		√	√
(d) Corporate Tax Return - 2018	√	√	√	√	√
(d) Corporate Tax Return - 2017	√	√	√	√	√
(d) Corporate Tax Return - 2016	√				
(e) Financial statements (external) - 2020	N/A (note 2)	N/A (note 2)	N/A (note 2)	N/A (note 2)	N/A (note 2)
(e) Financial statements (external) - 2019		(note 3)	(note 3)		√ (consol.) / (draft)
(e) Financial statements (external) - 2018		(note 3)	(note 3)		√ (consol.)
(e) Financial statements (external) - 2017		(note 3)	(note 3)		√ (consol.)
(e) Financial statements (external) - 2016		(note 4)	(note 4)		√ (consol.)
(f) Aged accounts payable listing - current	n/a - none	(note 3)	(note 3)	n/a - none	√
(g) Aged accounts receivable listing - current	n/a - none	(note 3)	(note 3)	n/a - none	√
(h) CRA NOA HST - most recent					
(h) CRA NOA Corp. Tax - most recent		√ (Jan 31/19)	√ (Jan 31/19)	√ (May 31/19)	
(i) Detailed GL- 2020	(note 5)	(note 5)	(note 5)	(note 5)	Review
(i) Detailed GL- 2019	(note 5)	(note 5)	(note 5)	(note 5)	(note 5)
(i) Detailed GL- 2018	(note 5)	(note 5)	(note 5)	(note 5)	(note 5)
(i) Detailed GL- 2017	(note 5)	(note 5)	(note 5)	(note 5)	(note 5)
(i) Detailed GL- 2016	(note 5)	(note 5)	(note 5)	(note 5)	(note 5)
(j) Inter-company GL account details - current	√	√	√	√	√
(j) Inter-company GL account details - 2020	√	√	√	√	√
(j) Inter-company GL account details - 2019	√	√	√	√	√
(j) Inter-company GL account details - 2018	√	√	√	√	√
(j) Inter-company GL account details - 2017	√	√	√	√	√
(j) Inter-company GL account details - 2016	√	√	√	√	√
(k) Inter-company GL account details - current	√	√	√	√	(note 1)
(k) Inter-company GL account details - 2020	√	√	√	√	(note 1)
(k) Inter-company GL account details - 2019	√	√	√	√	(note 1)
(k) Inter-company GL account details - 2018	√	√	√	√	(note 1)
(k) Inter-company GL account details - 2017	√	√	√	√	(note 1)
(k) Inter-company GL account details - 2016	√	√	√	√	(note 1)
(l) Bank Reconciliation - September 2020	Review	Review	Review	Review	Review
(l) Bank Reconciliation - August 2020	(note 6)	(note 6)	(note 6)	(note 6)	(note 6)
(l) Bank Reconciliation - July 2020	(note 6)	(note 6)	(note 6)	(note 6)	(note 6)

Note 1: Transactions details for the intercompany accounts with Edson Investment, NY LLC, Brause Investment and EAB not included with the information provided to AGI by the Receiver.

Note 2: Fiscal year not completed, document not available.

Note 3: Consolidated with NIP as per Debtors' historical practices.

Note 4: The 2016 Financial Statements included in 2017 annual statements

Note 5: Data provided by Receiver to AGI not in a format which can be used by AGI.

Note 6: Bank reconciliation provided do not include a copy of the third party bank statements to which they are reconciled.

Ledger	Name	Opening balance	Debit	Credit	Closing balance
10105	Inkster Petty Cash CDN	500.00	0.00	500.00	0.00
10155	Inkster Petty Cash, USD	856.18	62.88	919.06	0.00
10200	Store Floats	81,891.09	518.30	7,310.60	75,098.79
10320	Hong Kong 001	6,094.48	259,824.46	265,918.94	0.00
10360	Bank of America - 11672-44993	45,487.18	9,686,728.21	9,732,215.39	0.00
10380	Bank - Clearing - CAD	0.00	20,888,751.16	11,845,511.66	9,043,239.50
10395	Assiniboine Credit Union	6,971.45	81,373.63	87,946.50	398.58
10420	CIBC	13,526.46	805,493.13	792,450.81	26,568.78
10425	Bank Of Nova Scotia - Retail	20,126.64	990,145.97	1,047,857.91	-37,585.30
10430	Bank Of Montreal	633,969.58	59,384,476.84	60,150,795.65	-132,349.23
10440	Toronto Dominion	563,827.36	12,088,579.33	12,646,583.08	5,823.61
10700	BMO Collection #1 CAD 0577-1996-427	0.00	6,762,590.16	6,762,590.16	0.00
10730	BMO Collection USD 0577-4789-027	595.49	1,449,124.41	1,447,792.65	1,927.25
10750	BMO Disbursement #1 CAD 0577-1996-419	1,477,432.75	11,483,298.35	12,960,731.10	0.00
10760	BMO Disbursement #2 CAD 0577-1996-443	0.00	24,436,138.55	23,693,346.68	742,791.87
10770	BMO Disbursement USD 0577-4789-000	602,848.67	35,952,784.97	36,552,729.46	2,904.18
10790	BMO Harris Disbursement USD 3542214	2,509.68	4,066,004.57	4,066,682.77	1,831.48
11000	Accounts Receivable Trade - CAD	-81,572,044.46	18,676,852.19	42,208,199.87	-105,103,392.14
11001	Accounts Receivable Trade - USD	13,353,425.00	16,280,132.17	34,300,149.46	-4,666,592.29
11010	Allowance for Doubtful A/C	-1,317,718.27	23,444.70	21,981.59	-1,316,255.16
11020	Accounts Receivable Trade - IC - CAD	84,621,675.03	23,039,828.59	309,647.55	107,351,856.07
11021	Accounts Receivable Trade - IC - USD	655,598.12	205,813.84	164,160.89	697,251.07
11030	A/R Clearing - CAD	0.00	0.00	0.00	0.00
11115	Customer Accruals - GMD	380,316.42	0.00	0.00	380,316.42
11135	Customer Accruals - EP Discounts	-392,226.12	667,736.28	275,510.16	0.00
11140	Customer Accruals - Sales	-32,100.00	0.00	0.00	-32,100.00
11200	Layaway Receivable	-236.00	0.00	0.00	-236.00
11300	Travel Advances	-1,897.12	158.55	169.59	-1,908.16
11400	Security Deposits	623,105.67	955,880.66	979,795.05	599,191.28
11450	Purchase Deposits	550,647.13	2,175,399.82	2,269,535.09	456,511.86
11700	Miscellaneous A/R - NR	89,139.79	502,057.58	456,197.50	134,999.87
11710	Miscellaneous A/R - NS	1,464,664.77	8,189,224.92	8,940,956.53	712,933.16
11715	Special Events AR	-18,908.06	0.00	0.00	-18,908.06
11720	RP3 Customer Purchases AR	-1,042,658.23	229,147.70	68,479.29	-881,989.82
11880	Intercompany Nygard Holdings (USA) Ltd	0.00	592.35	592.35	0.00
11900	Intercompany - Nygard Inc	3,787,362.67	9,452,966.69	6,586,710.71	6,653,618.65
11905	Intercompany - Nygard Holdings	481,168.45	4,326,852.09	3,887,087.58	920,932.96
11906	Intercompany - Nygard Barbados Ltd.	-3,774,564.00	118,300.00	110,600.00	-3,766,864.00
11910	Intercompany - Nygard Enterprises	18,243,320.32	728,828.28	779,499.97	18,192,648.63
11915	Intercompany - Nygard Properties Ltd	2,670,971.39	494,767.87	20,165,821.90	-17,000,082.64
11920	Intercompany - 4093879 Canada Ltd	277,957.38	29,183.57	0.00	307,140.95
11925	Intercompany - 4093887 Canada Ltd	354,492.73	23,765.48	0.00	378,258.21
11930	Intercompany - Edson Investment	0.00	714,443.28	714,443.28	0.00
11935	Intercompany - NY LLC	0.00	83,878.92	83,878.92	0.00
11940	Intercompany - Brause Investment	0.00	2,600.02	2,600.02	0.00
11996	Intercompany - EAB	0.00	1,558.32	1,444.12	114.20
12000	Inventory - Divisions	1,472,697.46	0.00	0.00	1,472,697.46
12210	Inventory: Opening	38,595,844.91	1,336,423.66	2,554,050.88	37,378,217.69
12215	Inventory: Purchases - Fabric	-1,055,434.94	57,050.95	119,875.71	-1,118,259.70
12220	Inventory: Purchases	1,347,120,723.07	41,821,591.84	26,461,545.77	1,362,480,769.14
12230	Inventory: Transfers	-28,112,038.76	4,305,252.63	3,165,090.40	-26,971,876.53
12240	Inventory: Sales @ Cost	-1,296,805,327.74	1,463,466.82	64,743,688.01	-1,360,085,548.93
12250	Inventory: Realized Shrink	-5,581,459.77	854,289.21	28,139.93	-4,755,310.49
12260	Inventory : Markdowns	-6,850,051.49	880,662.81	515,304.58	-6,484,693.26
12295	Inventory - FX Adjustment	15,619,689.99	75,869,651.84	86,956,338.92	4,533,002.91
12400	Provision for Shrink	-213,249.66	0.00	10,868.45	-224,118.11
13000	Prepaid Expenses - Sundry	192,025.83	139,429.28	331,455.11	0.00
13100	Prepaid Insurance	218,590.54	433.69	219,024.23	0.00
13200	Prepaid Business Tax	-5,712.73	12,082.04	6,369.01	0.30

13300	Prepaid Property Tax	6,227.41	48,989.22	55,216.63	0.00
13400	Prepaid Workers Compensation	-146,528.05	15,553.56	27,688.06	-158,662.55
13410	Prepaid Workers Comp	-1,772,799.74	19.68	80,163.43	-1,852,943.49
13420	Workers Comp	130,640.06	0.00	0.00	130,640.06
13430	Workers Comp - Sask	84,176.43	0.00	0.00	84,176.43
13440	Workers Comp - Man	155,168.52	0.00	0.00	155,168.52
13450	Workers Comp - Ont	1,130,006.73	25,151.01	0.00	1,155,157.74
13460	Workers Comp - Que	107,996.88	7,442.95	0.00	115,439.83
13470	Workers Comp - N/B	72,032.36	0.00	0.00	72,032.36
13480	Workers Comp - PEI	16,363.21	0.00	0.00	16,363.21
13490	Workers Comp - N/S	152,717.68	6,555.53	0.00	159,273.21
13495	Prepaid W/Comp - CDN - RTL NF	17,223.28	0.00	0.00	17,223.28
16100	Building	0.00	0.00	0.00	0.00
16200	Vehicles	1,615,910.77	0.00	161,254.72	1,454,656.05
16210	Acc'd Dep'n - Vehicles	-1,476,391.55	119,382.15	3,487.98	-1,360,497.38
16300	Equipment	806,925.81	0.00	301,121.43	505,804.38
16310	Acc'd Dep'n- MFG Equipment	-770,593.23	291,743.20	2,117.80	-480,967.83
16400	Office Equipment	28,974,601.56	28,319.33	2,242,698.90	26,760,221.99
16410	Acc'd Dep'n-Equipment	-25,185,743.52	1,983,099.54	2,007,475.38	-25,210,119.36
16500	Leasehold Improvements	65,351,928.44	170,588.98	6,388,066.25	59,134,451.17
16505	Tenant Allowances	-6,403,140.71	0.00	0.00	-6,403,140.71
16510	Acc'd Dep'n-Leasehold Improvements	-52,590,565.35	5,403,629.90	8,498,707.63	-55,685,643.08
16515	Acc'd Amort - Tenant Allowances	5,415,407.94	987,732.77	0.00	6,403,140.71
16600	Soft Shop Displays	9,101,229.48	0.00	0.00	9,101,229.48
16610	Acc'd Dep'n-Soft Shop Displays	-9,101,229.48	0.00	0.00	-9,101,229.48
16620	SLIMS Shop Displays	3,396,661.47	0.00	0.00	3,396,661.47
16630	Acc'd Dep'n-SLIMS Shop Displays	-3,396,661.48	0.00	0.00	-3,396,661.48
16700	Computer Software	11,936,732.95	4,598.33	0.00	11,941,331.28
16710	Acc'd Dep'n-Computer Software	-11,784,747.18	0.00	10,282.29	-11,795,029.47
17000	Cap Lease-Computer Hardware	4,386,531.92	0.00	0.00	4,386,531.92
17010	Acc'd Dep'n-Cap Lease Hardware	-4,386,531.92	0.00	0.00	-4,386,531.92
17100	Cap Lease-Computer Software	1,815,764.13	0.00	0.00	1,815,764.13
17110	Acc'd Dep'n-Cap Lease-Software	-1,815,764.13	0.00	0.00	-1,815,764.13
19050	Bank Re-Organization Costs	3,733,871.57	1,993,932.50	147,998.65	5,579,805.42
19100	Investment in Zellers CR Brand	750,000.00	0.00	0.00	750,000.00
19110	Investment in Nygard Properties (USA)	11,596,792.73	0.00	0.00	11,596,792.73
19120	Investment in Nygard Holdings (USA)	8,119,500.78	0.00	0.00	8,119,500.78
19500	Trademark - EHL	480,433.46	0.00	0.00	480,433.46
19510	Acc'd Amortization-Trademarks	-256,296.00	0.00	0.00	-256,296.00
19550	Intangible - Slims	7,310,000.00	0.00	0.00	7,310,000.00
20020	Scotia Bank Loan - Operating	0.00	13.33	0.00	13.33
20150	White Oak Loan CAD	720,796.38	67,005,183.69	67,425,980.07	300,000.00
20160	White Oak Loan USD	-33,866,689.71	89,116,174.85	55,249,485.14	0.00
20200	Vouchers Payable CAD	-195,189.16	32,263,609.05	37,704,505.55	-5,636,085.66
20201	Vouchers Payable USD	15,200,109.97	43,997,416.74	46,882,453.99	12,315,072.72
20203	Vouchers Payables GBP	413.21	48.99	49.20	413.00
20300	Accrued Purchases at STD	-549,132,756.95	88,805,319.06	87,590,014.36	-547,917,452.25
20350	Accrued Purchases at STD - Materials Purchases	505,754,536.52	13,461,084.34	10,303,812.59	508,911,808.27
20360	Accrued Purchases at STD - Freight	25,952,631.56	1,000,439.80	61,138.04	26,891,933.32
20365	Accrued Purchases at STD - Air Freight In	3,239,995.39	196,954.06	1,651.64	3,435,297.81
20370	Accrued Purchases at STD - Duty	19,649,787.91	695,485.98	53.69	20,345,220.20
20375	Accrued Purchases at STD - Brokerage	939,685.66	15,903.67	0.00	955,589.33
20380	Accrued Purchases at STD - Agency / Commission	5,944,628.23	373,833.24	0.00	6,318,461.47
20390	Accrued Purchases at STD - Others	-8,096,323.91	0.00	0.00	-8,096,323.91
20400	Vouchers Accrued	-8,717,519.63	24,834,190.45	18,922,878.22	-2,806,207.40
20600	BCF Proceeds Payable	-132,094.79	24,049.12	23,212.80	-131,258.47
20700	AQC - Revenue Reserve	-21,191,892.52	10,896,656.49	11,435,846.80	-21,731,082.83
21000	Payroll Payable	-518,230.11	11,512,256.58	10,992,329.91	1,696.56
21100	Commissions Payable	-102,660.23	240,568.66	88,681.38	49,227.05
21200	Bonus Payable	-959,407.21	515,790.76	323,029.88	-766,646.33



21400	Vacations Payable	-1,579,967.82	243,886.19	264,173.71	-1,600,255.34
21500	Employee Tax Ded. Payable	-343,529.92	2,382,855.80	2,195,631.71	-156,305.83
21600	CPP Payable	-208,223.65	1,201,324.12	1,103,114.42	-110,013.95
21610	QPIP Payable	-1,714.62	6,820.56	6,454.05	-1,348.11
21700	EI Payable	-97,011.49	528,426.23	484,632.40	-53,217.66
21800	MB Payroll Tax Payable	-35,738.89	247,229.70	184,076.36	27,414.45
22400	Garnishee Payable	-395.29	12,053.78	12,558.30	-899.81
22610	BC PST Payable	-36,700.73	272,747.89	327,797.40	-91,750.24
22630	Saskatchewan PST Payable	-13,730.59	120,885.73	143,728.77	-36,573.63
22640	Manitoba PST Payable	-19,574.68	202,692.98	230,758.37	-47,640.07
22660	Sales Tax Payable - PQ	-50,508.84	351,831.78	323,980.77	-22,657.83
22680	Sales Tax Payable	-95,740.50	0.00	0.00	-95,740.50
22700	GST Paid	347,315.14	1,151,308.71	1,457,021.87	41,601.98
22800	GST Collected	-124,532.27	1,360,554.86	1,372,285.17	-136,262.58
22933	PEI - GST Non Recoverable - Meals & Entertainment	12.63	0.00	0.00	12.63
22943	BC - GST Non Recoverable - Meals & Entertainment	23.43	0.00	0.00	23.43
23100	Gift Certificates Payable	5,694.03	553.19	159.21	6,088.01
23150	Gift Cards Payable	-2,112,899.92	1,356,285.29	235,938.35	-992,552.98
23200	Purchase Credits Payable	-19,928.18	11,496.72	853.28	-9,284.74
23400	Nygard Cafe	-541.36	18,467.29	11,027.35	6,898.58
23510	HST Paid - Nova Scotia	13,083.50	143,680.33	145,245.72	11,518.11
23520	HST Paid - New Brunswick	8,307.76	94,999.00	97,805.80	5,500.96
23530	HST Paid - Newfoundland	9,018.76	103,096.21	106,155.68	5,959.29
23550	HST Paid - Ontario	141,056.31	1,143,152.30	1,174,093.13	110,115.48
23560	HST Paid - PEI	2,268.70	25,997.12	26,478.32	1,787.50
23610	HST Coll. - Nova Scotia	-47,188.95	532,260.69	527,492.77	-42,421.03
23620	HST Coll. - New Brunswick	-26,227.08	284,359.85	275,898.22	-17,765.45
23630	HST Coll. - Newfoundland	-15,411.60	220,256.39	224,508.78	-19,663.99
23640	HST Coll. - British Columbia	-89.95	89.95	0.00	0.00
23645	HST Coll. - Ontario	-365,905.53	3,290,980.56	3,245,386.69	-320,311.66
23670	HST Coll. - PEI	-8,178.74	76,021.26	67,842.52	0.00
23700	QST Input Tax Credit	5,421.65	53,328.01	53,011.11	5,738.55
24000	Income Taxes Current - Federal	-921,113.83	0.00	0.00	-921,113.83
24100	Withholding Tax Payable	288,078.56	54.58	50.26	288,082.88
24110	Withholding Tax - Royalties - NM	-551,521.58	0.00	10,080.23	-561,601.81
24120	Withholding Tax - Royalties - NF	141,909.57	10,423.64	9,597.90	142,735.31
24130	Withholding Tax - Slims	-730,510.66	0.00	0.00	-730,510.66
25700	Cross Currency Position	4.74	92,051,853.19	92,051,857.93	0.00
28000	Loans - PJN	-3,000,000.00	0.00	0.00	-3,000,000.00
30100	Capital - MAB	0.00	0.00	0.00	0.00
30300	Capital - 4093887 Canada Ltd	-58,988,822.55	0.00	0.00	-58,988,822.55
30400	Capital - 4093879 Canada Ltd	-43,111,639.98	0.00	0.00	-43,111,639.98
35000	Retained Earnings	2,023,054.25	0.00	0.00	2,023,054.25
40000	Sales	0.00	4,168,990.00	229,532,278.69	-225,363,288.69
40100	Sales - Clearances	0.00	0.00	6,498,020.85	-6,498,020.85
41000	Preferred Pricing	0.00	54,638,591.59	917,865.14	53,720,726.45
41200	Reductions/Markdowns Regular	0.00	75,518,089.85	70,583.27	75,447,506.58
41210	Reductions/Markdowns/Coupons	0.00	12,729,386.39	125,698.17	12,603,688.22
41300	Reductions,Retail Clearances	0.00	5,124,152.71	0.00	5,124,152.71
41400	Co-op Advertising	0.00	541,890.75	4,946.67	536,944.08
41410	Specialist Nygard.com Rewards	0.00	80,960.83	1,216.75	79,744.08
41600	Volume Rebates	0.00	11,383.31	0.00	11,383.31
42000	Discounts, Early Payment	0.00	588,865.40	665,950.77	-77,085.37
42100	Discounts, Employee	0.00	61,387.96	109.28	61,278.68
42200	Discounts, Clothing Credits	0.00	94,643.09	132.84	94,510.25
42300	Gross Margin Def	0.00	139,525.00	0.00	139,525.00
42310	Retail Early Markdowns	0.00	1,979,364.85	159,653.56	1,819,711.29
42500	Freight to Customers	0.00	94,591.80	1,494.47	93,097.33
48000	Purchase Discounts	0.00	1,425.60	8,634.65	-7,209.05
48100	Interest Income A/R	0.00	43,549.94	43,298.35	251.59

48200	Interest Income, Other - CDN	0.00	34,664.58	22,003.34	12,661.24
48250	Interest Income, Other - USD	0.00	99,909.65	101,109.92	-1,200.27
48400	Sundry Income	0.00	3,569.75	164,714.34	-161,144.59
48410	Translation Rounding	0.00	420,056.34	281.54	419,774.80
48440	Gain on Sale of Fixed Assets	0.00	1,166,094.29	1,186,441.15	-20,346.86
48500	Realized FX Gain	0.00	0.00	448,625.02	-448,625.02
48510	Realized FX Losses	0.00	61,885.40	1,067.14	60,818.26
48520	Revaluation Gain	0.00	10,571,271.95	23,482,194.40	-12,910,922.45
48530	Revaluation Loss	0.00	17,752,024.70	4,851,745.09	12,900,279.61
48800	Royalty Income - Licensing	0.00	118,114.20	146,539.50	-28,425.30
49400	Vendor AQC charges	0.00	17,355,466.30	17,695,607.52	-340,141.22
49650	Freight-Out to Customers Income	0.00	7,921.19	652,385.06	-644,463.87
51000	Freight	0.00	677,316.68	43,905.93	633,410.75
51010	Air Freight In	0.00	283,671.61	422.47	283,249.14
51020	Freight-Out to Customers	0.00	2,877,462.46	186,624.75	2,690,837.71
51100	Material Purchases	0.00	113,678.65	350,832.01	-237,153.36
51110	Cost of Garment Sales@STD	0.00	25,220,097.88	988,707.79	24,231,390.09
51180	Inventory Write - Down	0.00	16,809,268.41	6,897,062.11	9,912,206.30
51185	Inventory Cost Change	0.00	10,260,969.24	10,261,725.69	-756.45
51190	Inventory Realized Shrink	0.00	1,854,160.76	851,934.44	1,002,226.32
51195	Inventory FX Variance	0.00	3,527,516.15	971,156.97	2,556,359.18
51200	Duty	0.00	40,340.57	0.00	40,340.57
51300	Brokerage	0.00	2,025.26	0.00	2,025.26
51700	External Repairs, Finishing	0.00	5,893.41	0.00	5,893.41
53000	Retail Cost of Sales	0.00	42,562,814.80	497,215.92	42,065,598.88
53100	Retail Shrinkage	0.00	109,663.82	70,930.60	38,733.22
53400	Retail Markdowns	0.00	515,304.58	880,662.81	-365,358.23
53450	Retail AQC GM Chargebacks	0.00	0.00	1,813,156.00	-1,813,156.00
58200	AQC Recovery from Vendors	0.00	728,644.38	959,011.46	-230,367.08
60200	Income Contr - Dom reworks	0.00	625,246.70	320,949.39	304,297.31
61000	Income D.C. - Direct Shipments	0.00	0.00	195,868.20	-195,868.20
61200	Income SC - ICB Late	0.00	658,923.59	646,979.71	11,943.88
61400	Income D.C. - Prepack	0.00	0.00	49,427.00	-49,427.00
61500	Income SC - Licensee GOH	0.00	0.00	4,305.40	-4,305.40
61510	Income SC - Licensee PRPK	0.00	0.00	23,903.95	-23,903.95
61600	Income SC - Mass GOH	0.00	0.00	12,928.30	-12,928.30
61610	Income SC - Mass PRPK	0.00	0.00	77,754.60	-77,754.60
65300	Internal Repairs, Imp Finishing	0.00	904.45	0.00	904.45
65700	Shipping Allocation	0.00	607,849.66	0.00	607,849.66
67000	ICC Allocation	0.00	269,937.74	270,022.99	-85.25
67100	Nygaard Services H.O. Charge	0.00	532,531.53	539,930.46	-7,398.93
67250	NFN Services Allocated	0.00	23,957.21	700.00	23,257.21
68200	AQC Late in DC	0.00	1,132,544.15	1,161,575.88	-29,031.73
70000	Salaries - Exec & Office	0.00	5,363,059.55	1,942,198.80	3,420,860.75
70100	Salaries - Salespersons	0.00	254,722.06	125,721.93	129,000.13
70200	Salaries - Commissions	0.00	621,226.48	0.00	621,226.48
70300	Salaries - Design Group	0.00	1,298,159.12	703,225.02	594,934.10
70310	Salaries - Bonus - Design Group	0.00	28,767.00	0.00	28,767.00
70400	Salaries - Mgrs & Spvs	0.00	182,791.42	47,021.60	135,769.82
70500	Salaries - Service & Other	0.00	7,371,742.46	125,838.71	7,245,903.75
70600	Salaries-Janitorial & Maint.	0.00	139,589.13	62,296.06	77,293.07
70900	Salaries - Orient	0.00	391,438.67	12,375.00	379,063.67
70950	Salaries - Bonus	0.00	332,998.24	0.00	332,998.24
72010	Labour - Direct - Pick	0.00	103,537.13	18,799.15	84,737.98
72020	Labour - Direct - Pack	0.00	44,730.31	9,552.89	35,177.42
72030	Labour - Direct - Ship	0.00	36,122.51	12,543.74	23,578.77
72040	Labour - Direct - Prepack	0.00	7,904.87	3,164.35	4,740.52
72100	Labour - Samples	0.00	101.59	152.39	-50.80
72300	Labour - Repairs	0.00	22,122.64	9,368.40	12,754.24
72500	Labour - QC Receiving	0.00	17,551.95	8,006.50	9,545.45

72510	Labour - Stocking	0.00	16,464.69	9,701.23	6,763.46
72515	Labour - Inventory Consolidation	0.00	3,546.68	3,609.35	-62.67
72520	Labour - AQL 2.5 Inspection	0.00	14,304.72	7,692.85	6,611.87
72580	Labour - QC - Receiving - Sorting	0.00	18,070.60	9,717.59	8,353.01
72590	Labour - QC - Receiving - Scanning	0.00	3,977.48	2,479.91	1,497.57
72595	Labour - QC - Receiving - Returns	0.00	7,621.03	4,526.46	3,094.57
72620	Indirect Labour - Maint / Security	0.00	7,958.65	4,402.74	3,555.91
73010	Fringes - CPP	0.00	675,186.25	141,284.99	533,901.26
73020	Fringes - EIC	0.00	344,601.05	66,582.32	278,018.73
73030	Fringes - Group Insurance	0.00	196,329.99	7,116.49	189,213.50
73040	Fringes - Vacation	0.00	336,797.64	17,875.92	318,921.72
73050	Fringes - Stat Holiday	0.00	260,940.88	5,410.56	255,530.32
73060	Fringes - W. Comp	0.00	122,858.97	17,166.92	105,692.05
73080	Fringes - Retirement Fund	0.00	83,465.28	0.00	83,465.28
73110	Fringes - Provincial Health	0.00	225,343.24	41,845.26	183,497.98
74000	Advertising	0.00	238,750.76	114,435.07	124,315.69
74110	Auto - Leases	0.00	2,284.65	0.00	2,284.65
74120	Auto - Gas	0.00	6,602.02	0.00	6,602.02
74130	Auto - Repairs	0.00	13,522.42	0.00	13,522.42
74140	Auto-Insurance	0.00	36,396.06	0.00	36,396.06
74150	Car Allowance	0.00	118,318.59	37,670.69	80,647.90
74200	Bad Debts	0.00	5,941,653.18	0.00	5,941,653.18
74300	Bank Service Charges	0.00	845,231.02	23,074.55	822,156.47
74400	Business Tax & Licences	0.00	108,494.67	3,175.00	105,319.67
74600	Cash Over (Short)	0.00	4,247.84	1,217.55	3,030.29
74700	Common Area Costs	0.00	1,832,418.10	459,536.72	1,372,881.38
74800	Communications - Hardware	0.00	5,289.97	2,188.88	3,101.09
74810	Long Distance	0.00	14,830.70	12,201.23	2,629.47
74820	Cellular Phones	0.00	91,305.99	8,470.87	82,835.12
74830	Phone Rent and Usage	0.00	118,739.18	2,459.99	116,279.19
74840	1-800 lines	0.00	1,271.83	0.00	1,271.83
74860	Data Communications - Lines/POS	0.00	142,829.35	31,675.53	111,153.82
74880	Data Communications - Internet	0.00	214,827.99	10,096.90	204,731.09
74900	Competitor Samples	0.00	41,315.47	1,608.79	39,706.68
75000	Dep'n - Auto	0.00	3,487.98	0.00	3,487.98
75500	Dep'n - Computer Software	0.00	10,282.29	0.00	10,282.29
75600	Dep'n - Mfg Equipment	0.00	6,901.83	28,886.37	-21,984.54
75700	Dep'n-Leasehold Improvements	0.00	9,482,706.23	987,732.77	8,494,973.46
75800	Dep'n - Office Equipment	0.00	2,305,493.66	19,478.71	2,286,014.95
76000	Design fees	0.00	26,122.32	7,005.69	19,116.63
76010	ADL Royalties	0.00	78,413.75	0.00	78,413.75
76050	Å-TJ-BN US Royalties	0.00	22,388.53	0.00	22,388.53
76100	Discount Fees-Mastercard	0.00	35,502.15	7,282.18	28,219.97
76200	Discount Fees-Visa	0.00	54,292.57	55,981.71	-1,689.14
76250	Discount Fees - American Express	0.00	539.92	0.00	539.92
76400	Equipment Leases & Rentals	0.00	68,929.68	1,162.37	67,767.31
76510	Consulting - Other	0.00	15,789,785.86	4,372,408.21	11,417,377.65
76520	Consulting - Commission	0.00	100,755.44	0.00	100,755.44
76700	Insurance	0.00	566,403.85	0.00	566,403.85
76850	Int Exp - A/R Financing Discount	0.00	19,479.01	0.00	19,479.01
76870	Trade Payables Penalties	0.00	12,334.64	0.00	12,334.64
76890	Income & Capital Tax Penalties	0.00	1,096.95	0.00	1,096.95
76900	Mall Advertising	0.00	206,138.00	59,077.49	147,060.51
76950	BMO Loan Interest CAD	0.00	11,838.15	0.00	11,838.15
76960	BMO Loan Interest USD	0.00	1,741,470.40	0.00	1,741,470.40
77100	Memberships & Subscriptions	0.00	118,279.79	15,152.69	103,127.10
77400	Postage & Courier	0.00	114,408.49	8,646.78	105,761.71
77600	Professional Fees	0.00	212,162.54	36.40	212,126.14
77700	Promotions	0.00	3,334.88	0.00	3,334.88
77750	Meals & Entertainment	0.00	18,962.05	6,756.41	12,205.64

77760	Fit Model	0.00	2,850.00	0.00	2,850.00
77800	Property Taxes	0.00	1,801,056.87	484,462.91	1,316,593.96
77900	Rent	0.00	6,804,354.48	1,458,667.56	5,345,686.92
77910	Rent - Related Party	0.00	136,633.49	0.00	136,633.49
78000	Repairs/Maint - Building	0.00	259,728.04	34,878.60	224,849.44
78100	Repairs/Maint. - Equipment	0.00	2,825.96	0.00	2,825.96
78200	Service Contracts	0.00	563,991.07	12,350.69	551,640.38
78300	Ship/Wrap Supplies	0.00	482,616.46	124,673.43	357,943.03
78400	Special Events	0.00	12,723.10	4,358.42	8,364.68
78500	Office Supplies	0.00	127,645.36	33,270.45	94,374.91
78510	Office / Store Supplies	0.00	13,563.80	0.00	13,563.80
78600	Store Decor	0.00	18,384.83	0.00	18,384.83
78700	Sundry	0.00	140,391.25	61,211.44	79,179.81
78710	Sundry - Non-Compliance	0.00	1,369.51	1,364.19	5.32
78711	Sundry - Non-Compliance - Shortage	0.00	11,548.33	13,099.78	-1,551.45
78713	Sundry - Non-Compliance - Shipping Violation	0.00	13,001.69	26,003.38	-13,001.69
78716	Sundry - Non-Compliance - Late Charge	0.00	500.00	1,000.00	-500.00
78720	Sundry - Clothing Allowances	0.00	33,750.00	0.00	33,750.00
78810	Travel - Airfare	0.00	133,391.40	8,949.87	124,441.53
78820	Travel - Hotel	0.00	87,506.25	1,860.01	85,646.24
78830	Travel - Meals & Entertainment	0.00	35,581.30	403.86	35,177.44
78840	Travel - Other	0.00	62,262.44	849.35	61,413.09
78900	Utilities-Cable & Satellite	0.00	64,900.36	16,932.62	47,967.74
78910	Utilities-Hydro	0.00	1,014,259.14	157,035.24	857,223.90
78920	Utilities-Gas	0.00	116,561.96	18,940.20	97,621.76
78930	Utilities-Water	0.00	42,065.54	1,946.25	40,119.29
79110	Professional Development	0.00	256.92	505.18	-248.26
79200	Computer Supplies	0.00	33,661.81	8,220.02	25,441.79
79300	Recruiting - Agency Fees	0.00	10,919.95	0.00	10,919.95
79320	Recruiting - Travel/Interviews	0.00	2,160.88	0.00	2,160.88
79330	Recruiting - Media Advertising	0.00	32,000.00	0.00	32,000.00
79600	Store Expenses - Paid In/Outs	0.00	39,821.16	775.22	39,045.94
82350	Modelling	0.00	6,230.85	23.52	6,207.33
86000	P&C Insurance - Premiums	0.00	9,141.67	0.00	9,141.67

## 4093879 Canada Ltd.

Ledger account	Name	Opening balance	Debit	Credit	Closing balance
11910	Intercompany - Nygard Enterprises	-908,910.83	0.00	0.00	-908,910.83
11920	Intercompany - Nygard Int'l Partnership	-277,957.38	0.00	29,183.57	-307,140.95
19400	Investment in Nygard Int'l Partnership	41,961,694.14	0.00	0.00	41,961,694.14
24000	Income Taxes Current - Federal	-2,302,858.31	18,902.00	0.00	-2,283,956.31
25700	Cross Currency Position	0.00	0.00	0.00	0.00
30500	Share Capital	-37,584,712.00	0.00	0.00	-37,584,712.00
30700	Paid in Surplus	16,090.00	0.00	0.00	16,090.00
35000	Retained Earnings	-903,345.62	0.00	0.00	-903,345.62
76890	Income & Capital Tax Penalties	0.00	5,660.41	0.00	5,660.41
77600	Professional Fees	0.00	4,621.16	0.00	4,621.16

## 4093887 Canada Inc.

Ledger account	Name	Opening balance	Debit	Credit	Closing balance
11920	Intercompany - Nygard Int'l Partnership	-354,492.73	0.00	23,765.48	-378,258.21
11925	Intercompany - Nygard Properties	228,082.90	22,993.05	0.00	251,075.95
19400	Investment in Nygard Int'l Partnership	57,583,332.25	0.00	0.00	57,583,332.25
24000	Income Taxes Current - Federal	-2,843,912.82	14,494.00	0.00	-2,829,418.82
25700	Cross Currency Position	0.00	0.00	0.00	0.00
30500	Share Capital	-42,762,096.00	0.00	0.00	-42,762,096.00
30700	Paid in Surplus	-3,691,826.00	0.00	0.00	-3,691,826.00
35000	Retained Earnings	-8,159,087.60	0.00	0.00	-8,159,087.60
48520	Revaluation Gain	0.00	0.00	22,993.05	-22,993.05
76890	Income & Capital Tax Penalties	0.00	4,650.32	0.00	4,650.32
77600	Professional Fees	0.00	4,621.16	0.00	4,621.16

Nygard Properties Limited

ledger account	Name	Opening balance	Debit	Credit	Closing balance
11450	Purchase Deposits	2.56	0.00	0.00	2.56
11865	Intercompany-Nygard Business Consultancy (Shanghai) Co. Ltd.	2,038,864.17	0.00	0.00	2,038,864.17
11915	Intercompany - Nygard Int'l Partnership	-2,452,640.57	19,609,070.90	18,789.14	17,137,641.19
11925	Intercompany - 4093887 Canada Ltd	-210,332.26	0.00	0.00	-210,332.26
11970	Intercompany - Estate	-159,907.56	0.00	0.00	-159,907.56
12000	Inventory	8,690,211.49	0.00	0.00	8,690,211.49
13300	Prepaid Property Tax	10,720.78	0.00	0.00	10,720.78
16000	Land	1,213,654.64	0.00	311,300.00	902,354.64
16100	Building	16,591,106.56	0.00	10,016,222.16	6,574,884.40
16110	Acc'd Dep'n - Building	-12,579,994.27	7,850,475.39	0.00	-4,729,518.88
18000	Long Term Loans	786,104.86	0.00	0.00	786,104.86
19140	Investment in Nygard Business Consulting Shanghai	3,241,248.79	0.00	0.00	3,241,248.79
19600	Investment in 4093887 Canada Ltd	46,453,922.00	0.00	0.00	46,453,922.00
24000	Income Taxes Current - Federal	798,516.80	0.00	0.00	798,516.80
25700	Cross Currency Position	0.00	0.00	0.00	0.00
30500	Share Capital - NIL	-14,238.52	0.00	0.00	-14,238.52
30530	Class B Shares - NEL	-3.00	0.00	0.00	-3.00
30600	Preferred Stock - NIL	-480,000.00	0.00	0.00	-480,000.00
30700	Paid in Surplus	-4,412.00	0.00	0.00	-4,412.00
31000	Dividends	0.00	0.00	0.00	0.00
35000	Retained Earnings	-17,583,847.70	0.00	0.00	-17,583,847.70
35100	Retained Earnings - NIL	-46,338,976.77	0.00	0.00	-46,338,976.77
48440	Gain on Sale of Fixed Assets	0.00	0.00	17,222,953.23	-17,222,953.23
74830	Phone Rent and Usage	0.00	319.74	319.74	0.00
77600	Professional Fees	0.00	109,718.24	0.00	109,718.24

Nygard Enterprises Limited

Ledger account	Name	Opening balance	Debit	Credit	Closing balance
10370	Ameriprise Cash (Margin)	-7,880,593.23	0.00	0.00	-7,880,593.23
10500	Ameriprise Short Term Mutual Funds	3,782,330.09	0.00	0.00	3,782,330.09
10510	Ameriprise Short Term Equities	11,573,314.10	0.00	0.00	11,573,314.10
11910	Intercompany - Nygard Int'l Partnership	-18,126,691.84	0.00	65.00	-18,126,756.84
11920	Intercompany - 4093879 Canada Ltd	689,415.62	0.00	0.00	689,415.62
11970	Intercompany - PJN Family Trust	-2,277.58	0.00	0.00	-2,277.58
13000	Prepaid Expenses	26,774.71	0.00	0.00	26,774.71
19000	Incorporation Costs	500.00	0.00	0.00	500.00
19700	Investment in 4093879 Canada Ltd	37,568,622.00	0.00	0.00	37,568,622.00
19800	Investment in Nygard Properties Ltd	764,522.00	0.00	0.00	764,522.00
19910	Investment Anchor Free	207,707.49	0.00	0.00	207,707.49
19950	Miscellaneous Investments	128,868.17	0.00	0.00	128,868.17
20300	Accruals - I/C	-30,000.00	0.00	0.00	-30,000.00
24000	Income Taxes Current - Federal	11,444.08	0.00	0.00	11,444.08
24100	Withholding Tax	115,363.01	0.00	0.00	115,363.01
25700	Cross Currency Position	0.00	0.00	0.00	0.00
29000	Shareholder Loan	8,400.00	0.00	0.00	8,400.00
30500	Share Capital	-1,001.00	0.00	0.00	-1,001.00
31000	Dividends	24,000,000.00	0.00	0.00	24,000,000.00
35000	Retained Earnings	-52,836,697.62	0.00	0.00	-52,836,697.62
77600	Professional Fees	0.00	65.00	0.00	65.00