



**In the Matter of the Bankruptcy of 0621340 B.C. Ltd.  
(Formerly Nita Lake Lodge Corporation)**

**Trustee's Report to the Creditors on Preliminary Administration  
March 13, 2012**

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Submitted to:           The Creditors of 0621340 B.C. Ltd.  
                                  (Formerly Nita Lake Lodge Corporation)

                                  The Official Receiver  
                                  Office of the Superintendent of Bankruptcy

Submitted by:           G. Powroznik Group Inc., Trustee in Bankruptcy  
                                  Ali Pourdad  
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**TRUSTEE’S REPORT TO THE CREDITORS  
ON PRELIMINARY ADMINISTRATION**

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## Background

0621340 B.C. Ltd. (the “**Company**” or “**Nita**”), formerly known as Nita Lake Lodge Corporation, is owned 100% by Property Team Inc. (“**PTI**”), an insolvent Alberta corporation currently in receivership. The sole director of 0621340 B.C. Ltd., Bryce Chapman, also owns 50% of PTI and his wife owns the other 50% share. The Company was established to undertake the development and construction of the Nita Lake Lodge (the “**Hotel**”) an exclusive luxury boutique hotel in Creekside, a neighbourhood in the resort municipality of Whistler, B.C. and related assets (the “**Nita Assets**”).

The Company was originally established to acquire property for three joint venture partners who undertook to acquire and develop the Nita Assets. The joint venture partners included Stanley Properties Ltd., 629086 B.C. Ltd. and PTI (the “**Initial Joint Venturers**”).

PT Phase II (“**Phase II**”) was formed to raise funds to invest in Nita’s development. Initially Phase II raised approximately \$8,800,000 for investment in Nita (the “**First Loan**”) from approximately 500 investors. Thereafter, Phase II raised a further approximately \$3,210,000 from subscribers for mortgage units (“**Mortgage Units**”) and appointed an agent to represent their interests (the “**Agent**”). The proceeds from the Mortgage Units were advanced to Nita as a second loan (the “**Second Loan**”). The First Loan and Second Loan were both secured on the Lodge through a co-lender agreement between Phase II and the Agent providing a undivided 2/3 and 1/3 interest, respectively, in a mortgage (the “**Undivided Mortgage**”) that ultimately ranked behind the mortgage securing the construction financing primarily provided by Nita’s lender, HSBC Bank Canada (“**HSBC**”).

In 2004, HSBC provided its initial loans to Nita and the Initial Joint Venturers. In 2005, its construction financing facility was \$53.5 million of which almost \$23 million was drawn down by December 31, 2005. Further loans were provided by HSBC over the years to Nita.

On December 31, 2004, the Initial Joint Venturers provided an Indemnity to HSBC Capital (Canada) Inc. (“**Capital**”) to support a guarantee provided by Capital to HSBC for \$3.5 million. On November 6, 2009, Capital paid HSBC under the guarantee and assumed security held by HSBC in support of the loan Capital paid out.

It became evident to HSBC in 2005 that the Hotel development was having problems and needed more financing. HSBC called upon PTI and Bryce Chapman in 2005 to provide it additional security and additional funding for Nita. This resulted in PTI assuming the joint venture interests and obligations of Stanley Properties Ltd. and 629086 B.C. Ltd. in 2005. On June 30, 2006, PTI transferred its interest and obligations in the Nita Assets to Nita. In addition, HSBC required PTI to provide additional cash injections into Nita to cover construction overruns. As a result PTI obtained two loans from HSBC totalling \$11,834,000, secured by a second mortgage on PTI’s assets, to allow it to inject additional cash into Nita. HSBC also requested and received additional guarantees from PTI and Bryce Chapman for all of its loans to Nita (the “**Nita Loans**”). In addition, PTI began liquidating additional assets in order to provide additional cash to cover ongoing construction overruns in Nita. Overall, PTI

has advanced approximately \$17 million and written off its investment in the initial joint venture of \$9 million.

The losses at Nita and the deficiency to HSBC in its security continued to mount due to the downturn in the global economy, the rising costs of construction caused by the Olympic construction boom and management problems. The Hotel opened partially in January 2008 while construction continued. Operating losses for the Hotel ran at \$150,000/month in 2008. In October 2008, HSBC demanded repayment of the Nita Loans and made demands upon the guarantors. In November 2008, Nita and PTI (the “**Companies**”) and Bryce Chapman, with the co-operation and consent of HSBC, retained G-Force Advisors Inc. (“**G-Force**”) to develop a restructuring and realization plan for Nita and PTI that would be acceptable to both them and HSBC. This action was taken by Bryce Chapman to avert the appointment of a receiver and to maximize the recovery for HSBC which was looking at a loss in the \$40-50 million range.

By this time it was also clear that the combined assets of PTI and Bryce Chapman, which guaranteed HSBC’s Nita Debt repayment, would never be able to repay the anticipated shortfall to HSBC. This meant that all other creditors and investors in the Nita Assets would also not have any hope of recovering anything from this investment. However, many of these investors had invested in two other remaining projects with PTI. –Bryce Chapman was committed to continue his tireless efforts to maximize the return to HSBC from the Nita Assets in order to minimize its losses and build goodwill with HSBC. His other objectives included finding restructuring solutions for HSBC’s anticipated claim on the other two PTI projects to minimize the impact of HSBC’s recovery efforts on the independent investors involved there.

With the help of G-Force and support from HSBC, a realization plan was developed and undertaken on the Hotel and Nita Assets which culminated in a sale of Nita’s last tangible assets to an arms-length party on March 16, 2010 (the “**Nita Sale Date**”). The first mortgage on two related bare land strata lots (First Island Mortgages) and a portion of the HSBC Loan were paid down on the sale of the Hotel and other Nita Assets, leaving a shortfall to HSBC on its secure loan, of more than \$40 million. Capital, PTI, Phase II, and the Agent were all informed of the pending sale, the significant shortfall to HSBC as a first mortgagee and that there was no hope of any recovery for them. As a result all of these subordinated secured creditors voluntarily discharged their security to minimize further costs, and avoid the appointment of a Receiver.

The Company effectively ceased operations on the Nita Sale Date, upon selling its last tangible assets. As part of its overall restructuring plan, the Company assigned itself into bankruptcy on March 1, 2012.

## **1) Preliminary Evaluation of Assets and Details of Security Interest**

As summarized above, there are no unencumbered assets remaining in the Company as substantially all the tangible assets were sold in March 2010 and HSBC is still owed over \$40 million. Assets remaining in the Estate are as follows:

### Accounts Receivable

The Company held approximately \$2,522,771 in gross accounts receivable as at the date of bankruptcy. However, this amount is made up of \$2,361,353 of receivables due from an insolvent related company, formerly Nita Lake Lodge Management, and \$158,237 is a contingent claim against a contractor of the Hotel which the Company does not believe is collectible. There also appears to be approximately \$3,181 of GST/HST receivable from Canada Revenue Agency. However, all assets are secured by HSBC at this time through its General Security Agreement (“GSA”).

### Cash

On the date of its assignment into bankruptcy, the Company reported \$97,280.31 of cash being held in HSBC bank accounts. This cash is also secured by HSBC through its GSA.

## **2) Books & Records**

The Trustee has not taken possession of the Company’s books and records due to the following reasons:

- The Company’s books & records are located in Red Deer, AB;
- A related party to the Trustee, G-Force was an advisor to the Company since November 2008 and since the date of bankruptcy continues to advise PTI and Bryce Chapman on their overall restructuring plan. The Trustee has historically had and continues to have full access to the Company’s books and records through its internal accountant charlene Turner;
- The Trustee’s opinion is that management is trustworthy and competent and maintains reliable books & records;
- We understand that the Company’s management may be intending to file a Proposal pursuant to section 50(1)(d) of the Bankruptcy and Insolvency Act (“BIA”). Under this scenario, it is anticipated that the unsecured creditors with proven claims would receive a dividend. A successful Proposal pursuant to s.50(1)(d) of the BIA would have the effect of annulling the bankruptcy.

## **3) Conservatory and Protective Measures**

Certain conservatory and protective measures have been required by the Trustee, prior to the First Meeting of Creditors. These measures include entering into debt settlement agreements with some of Nita’s major creditors in order to extinguish claims against the estate. It is the Trustee’s opinion that the settlement of these debts provides an immediate benefit to the estate. Further information regarding these debt settlements, including the creditor information and amounts settled, are outlined in section four of this report. The Trustee has sought the advice of its independent counsel in signing these protective measures prior to the First Meeting of Creditors. If an Inspector(s) is appointed at the First Meeting of Creditors,

the Trustee's intention is to have the Inspector ratify the Trustee's actions of entering into these debt settlement agreements.

#### 4) Provable Claims

Creditors continue to submit their completed Proof of Claim forms to our office as expected. On the original Statement of Affairs there were 13 unsecured creditors with unproven claims totalling \$112,031,132.53.

To date, we have received four completed Proof of Claim forms totalling \$7,978.22 in proven claims outlined as follows:

***Table 1 – Creditors with Proven Claims***

<b>Creditor</b>	<b>Proven Claim</b>	<b>Notes</b>
charlene Turner	\$2,437.10	None
Davis LLP	\$1,500.00	None
Miller Thomson LLP	\$3,346.72	Two further invoices were received from Miller Thomson subsequent to filing the statement of affairs.
Abercromby Rathgerber CA	\$ <u>694.40</u>	None
<b>Total</b>	<b><u>\$7,978.22</u></b>	

#### Claims Extinguished in Bankruptcy

As discussed in section three above and as detailed in the table 2 below, the Trustee has entered into two debt settlement/extinguishment agreements with two creditors prior to the First Meeting of Creditors. These were part of PTI's overall restructuring plan which also involved its subsidiary, Nita. The Trustee determined, and confirmed with advice from its independent counsel, that it was in the best interest of the estate to execute these agreements on a time sensitive basis. These two agreements effectively extinguish total claims of \$40,566,277.89 against Nita.

PTI is also working on further significant debt extinguishment agreements that could also involve Nita.

***Table 2 – Creditors with Debts Settled in Bankruptcy***

<b>Creditor</b>	<b>Unsecured claim per Statement of Affairs</b>	<b>Unsecured claim extinguished</b>	<b>Remaining Claim against Company</b>
Property Team Phase II Ltd.	\$21,164,947.77	\$21,164,947.77	Nil
Terry Rushton, Agent for Certain Subscribers of Mortgage Units of Property Team Phase II Ltd.	\$ <u>19,401,330.12</u>	\$ <u>19,401,330.12</u>	Nil
<b>Total Claims</b>	<b><u>\$40,566,277.89</u></b>	<b><u>\$40,566,277.89</u></b>	<b>Nil</b>

### Claims Extinguished Prior to Bankruptcy

On February 23, 2012, the Company settled two separate unsecured claims, for approximately \$199,070, with one of the Initial Joint Venturers on February 23, 2012 for \$0.001 on the dollar. As Nita had no cash or assets, Charlene Turner, an employee of a related company, paid \$214.06 to settle these claims. Ms. Turner has added the \$214.06 to her other claims against Nita.

### Contingent Claims

The Company has identified 28 contingent creditors with possible claims totalling \$356,024. It should be noted that the majority of contingent creditors have been shown at \$1 for reporting purposes as there is no information to support these claims in the books & records of the Company. None of these creditors have contacted the Trustee or filed any claims up until the time set for the First Meeting of Creditors.

Claims No. 5 and 6 on List "D" of the Statement of Affairs, totalling \$58,000, relate to estimated costs the Company has related to deficiencies in the original development of the Hotel. Management believes they have estimated these costs conservatively, but actual costs may vary. These costs are covered by Letters of Credit ("L/Cs") issued by HSBC for \$500,000. PTI has deposited \$500,000 in trust to cover these anticipated costs. Charlene Turner is actively working to resolve the deficiencies and obtain full releases of the L/Cs. Ms. Turner estimates that the L/Cs will be released by the summer of 2012.

### **Legal Proceedings, Reviewable Transactions and Preference Payments**

The Trustee is not aware of any legal proceedings against Nita. HSBC did commence an action against PTI in late October 2011, which resulted in Deloitte (the "Receiver") being appointed as Receiver over PTI on November 2, 2011.

As noted above, the Company did settle certain claims with the Initial Joint Venturers pursuant to an agreement dated February 23, 2012; however, the funds used to settle these claims were paid directly by Charlene Turner, in her personal capacity. Accordingly, in paying an amount to the Initial Joint Venturers in full settlement of its claim, Ms. Turner is now a creditor in the bankruptcy of NLLC for the payments made by her personally to the Initial Joint Venturers.

Upon its appointment, the Trustee performed interviews with Bryce Chapman as well as with employees of related companies to determine what payments, if any, had been made before the assignment of the Company into bankruptcy. The Company's operations have been significantly curtailed since the sale of the Hotel. Activities since then have been related to resolving deficiencies from the development activities, obtaining releases of the L/Cs and winding down the Company's affairs. These activities have been carried out by Ms. Turner, working closely with HSBC and supported by G-Force's advisory role. HSBC honoured Nita's commitment to staff and suppliers to complete the development and operate the Hotel until it was sold in 2010. HSBC was the Company's priority secured creditor who was facing a shortfall of over \$40 million. It had authorized payments to PTI, Nita's parent, as

conservatory measures to protect HSBC's security interest in PTI. We have not found any indication that the Company has made any preference payments before the assignment into bankruptcy but rather has worked with HSBC in paying out almost all its creditors.

### **Conflict of Interest, Fee Guarantees, and Third Party Deposits**

As set out earlier in this report, G-Force was retained on November 4, 2008 by Nita and PTI (together the "**Companies**") and Bryce Chapman (the "**Restructuring Clients**") with the cooperation and consent of HSBC, to develop a restructuring and realization plan for Nita and PTI that would be acceptable to both the Restructuring Clients and HSBC (the "**Overall Restructuring Engagement**"). G-Force is a related company to the Trustee. At the time, this action was taken by the Restructuring Clients to avert the imminent appointment of a receiver over the Companies and to maximize the recovery for HSBC which was looking at a loss in the \$40-50 million range. Since the sale of all of the Nita assets in March 2010, most of the restructuring activities have been focussed on PTI. Note that Nita changed its corporate name to 0621340 B.C. Ltd. after the sale of its assets in March 2010.

In November 2011, HSBC made an application to have a Receiver appointed over PTI. Bryce Chapman has requested that G-Force continue with the Overall Restructuring Engagement in advising PTI and Bryce Chapman on their restructuring activities with PTI, HSBC and the Receiver of PTI while the Trustee accept the engagement on the Client. Two of the largest creditors of the Client at the time of the company became bankrupt, HSBC and Property Team Phase II Ltd., have had no objection to the appointment of the Trustee.

The engagement of G. Powroznik Group Inc. as Trustee for the Client requires it to remain objective from the role of GFA in the remaining Overall Restructuring Engagement for PTI and Bryce Chapman. This will be achieved in a variety of ways. First, each of the major stakeholders in the Client and PTI has their own legal counsel including: PTI and Bryce Chapman; HSBC; the Receiver; Property Team Phase II Ltd. and the Trustee. Second, it is anticipated and desired that the Estate will appoint an inspector at the First Meeting of Creditors whose duties include approving the Trustees activities. Further, the Trustee continues to provide full disclosure of its relationship with G-Force and the nature of the Overall Restructuring Engagement to the Superintendent of Bankruptcy, the creditors and the Court.

As Trustee of the Estate of the bankrupt, we report that Bryce Chapman has provided a guarantee to the Trustee or its fees and disbursements and has provided a deposit to the Trustee for \$20,000 in support of the guarantee. There are no other fee guarantees or third party deposits outstanding as of this date.

### **Projected Distribution and Anticipated Asset Realization**

There are no unencumbered assets in the bankrupt estate for the Trustee to realize on and therefore it is not anticipated that there will be a distribution to unsecured creditors in this estate. The Trustee has been notified of the intention of the Company to file a Proposal to its



creditors under the BIA if it and PTI can complete their Overall Restructuring Plan. Although the details of the Proposal have not been finalized, it is anticipated that the Company's unsecured creditors will receive a dividend on the amount of their proven claims. In the event of a successful Proposal, the bankruptcy would be annulled in accordance with section 61(1) of the BIA.

## **RESTRICTIONS AND QUALIFICATIONS**

This report on the preliminary administration of the Estate of Nita summarizes the Trustee's findings and conclusions from its review of the Company's records and other information received, and from its investigations since the date of bankruptcy. It is subject to change based on subsequent findings or receipt of additional information.

In conducting our research and preparing our report, we obtained certain information and representations from the Director, former employees of the Company, and third parties. Information, data and documentation furnished by others was presumed to be reliable and, except as expressly noted in our report, was not verified. Accordingly, G. Powroznik Group Inc. assumes no responsibility for the accuracy of third party information provided. We are pleased to answer any questions you may have.