Form 5500

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Annual Return/Report of Employee Benefit Plan

This form is required to be filed for employee benefit plans under sections 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and sections 6047(e), and 6058(a) of the Internal Revenue Code (the Code).

▶ **Complete all entries in accordance with the instructions to the Form 5500.**

OMB Nos. 1210-0110
1210-0089

2009

This Form is Open to Public Inspection

Part I Annual Report Identification Information

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

A This return/report is for:
- [ ] a multiemployer plan;
- [ ] a multiple-employer plan; or
- [X] a single-employer plan;
- [ ] a DFE (specify) ____

B This return/report is:
- [ ] the first return/report;
- [ ] the final return/report;
- [ ] an amended return/report;
- [ ] a short plan year return/report (less than 12 months).

C If the plan is a collectively-bargained plan, check here. . . . . ▶ [ ]

D Check box if filing under:
- [ ] Form 5558;
- [ ] automatic extension;
- [ ] the DFVC program;
- [ ] special extension (enter description)

Part II Basic Plan Information—enter all requested information

1a Name of plan
SWINERTON 401(K) & SAVINGS PLAN

1b Three-digit plan number (PN) ▶ 001

1c Effective date of plan 01/01/1962

2a Plan sponsor's name and address (employer, if for a single-employer plan) (Address should include room or suite no.)
SWINERTON INCORPORATED

260 TOWNSEND STREET
SAN FRANCISCO, CA 94107

2b Employer Identification Number (EIN)
93-1132374

2c Sponsor's telephone number
415-421-2980

2d Business code (see instructions)
236200

Caution: A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including accompanying schedules, statements and attachments, as well as the electronic version of this return/report, and to the best of my knowledge and belief, it is true, correct, and complete.

SIGN HERE	Filed with authorized/valid electronic signature.	07/29/2010	PHYLLIS M. SMITH
	Signature of plan administrator	Date	Enter name of individual signing as plan administrator
SIGN HERE			
	Signature of employer/plan sponsor	Date	Enter name of individual signing as employer or plan sponsor
SIGN HERE			
	Signature of DFE	Date	Enter name of individual signing as DFE

3a Plan administrator's name and address (if same as plan sponsor, enter "Same")
SWINERTON INCORPORATED

260 TOWNSEND STREET
SAN FRANCISCO, CA 94107

3b Administrator's EIN
93-1132374

3c Administrator's telephone number
415-421-2980

4 If the name and/or EIN of the plan sponsor has changed since the last return/report filed for this plan, enter the name, EIN and the plan number from the last return/report:

a Sponsor's name

4b EIN

4c PN

5	Total number of participants at the beginning of the plan year	**5**	2143
6	Number of participants as of the end of the plan year (welfare plans complete only lines **6a, 6b, 6c,** and **6d**).		
a	Active participants	**6a**	1006
b	Retired or separated participants receiving benefits	**6b**	0
c	Other retired or separated participants entitled to future benefits	**6c**	933
d	Subtotal. Add lines **6a**, **6b**, and **6c**	**6d**	1939
e	Deceased participants whose beneficiaries are receiving or are entitled to receive benefits	**6e**	4
f	Total. Add lines **6d** and **6e**	**6f**	1943
g	Number of participants with account balances as of the end of the plan year (only defined contribution plans complete this item)	**6g**	1943
h	Number of participants that terminated employment during the plan year with accrued benefits that were less than 100% vested	**6h**	0
7	Enter the total number of employers obligated to contribute to the plan (only multiemployer plans complete this item)	**7**	

8a If the plan provides pension benefits, enter the applicable pension feature codes from the List of Plan Characteristic Codes in the instructions:
2E 2F 2H 2I 2J 2K 2O 2S 2T 3H

b If the plan provides welfare benefits, enter the applicable welfare feature codes from the List of Plan Characteristic Codes in the instructions:

9a Plan funding arrangement (check all that apply)

(1)	X	Insurance
(2)		Code section 412(e)(3) insurance contracts
(3)	X	Trust
(4)		General assets of the sponsor

9b Plan benefit arrangement (check all that apply)

(1)		Insurance
(2)		Code section 412(e)(3) insurance contracts
(3)	X	Trust
(4)		General assets of the sponsor

10 Check all applicable boxes in 10a and 10b to indicate which schedules are attached, and, where indicated, enter the number attached. (See instructions)

a Pension Schedules

(1)	X	**R** (Retirement Plan Information)
(2)		**MB** (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information) - signed by the plan actuary
(3)		**SB** (Single-Employer Defined Benefit Plan Actuarial Information) - signed by the plan actuary

b General Schedules

(1)	X		**H** (Financial Information)
(2)			**I** (Financial Information – Small Plan)
(3)	X	1	**A** (Insurance Information)
(4)	X		**C** (Service Provider Information)
(5)	X		**D** (DFE/Participating Plan Information)
(6)			**G** (Financial Transaction Schedules)

SCHEDULE A (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Insurance Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA).

▶ **File as an attachment to Form 5500.**

▶ Insurance companies are required to provide the information pursuant to ERISA section 103(a)(2).

OMB No. 1210-0110

2009

This Form is Open to Public Inspection

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

A Name of plan
SWINERTON 401(K) & SAVINGS PLAN

B Three-digit plan number (PN) ▶ 001

C Plan sponsor's name as shown on line 2a of Form 5500.
SWINERTON INCORPORATED

D Employer Identification Number (EIN)
93-1132374

Part I **Information Concerning Insurance Contract Coverage, Fees, and Commissions** Provide information for each contract on a separate Schedule A. Individual contracts grouped as a unit in Parts II and III can be reported on a single Schedule A.

1 Coverage Information:

(a) Name of insurance carrier
NEW YORK LIFE INSURANCE CO.

(b) EIN	**(c)** NAIC code	**(d)** Contract or identification number	**(e)** Approximate number of persons covered at end of policy or contract year	Policy or contract year	
				(f) From	**(g)** To
13-5582869	66915	30500	1943	01/01/2009	12/31/2009

2 Insurance fee and commission information. Enter the total fees and total commissions paid. List in item 3 the agents, brokers, and other persons in descending order of the amount paid.

(a) Total amount of commissions paid	**(b)** Total amount of fees paid
0	0

3 Persons receiving commissions and fees. (Complete as many entries as needed to report all persons).

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

(a) Name and address of the agent, broker, or other person to whom commissions or fees were paid

(b) Amount of sales and base commissions paid	Fees and other commissions paid		**(e)** Organization code
	(c) Amount	**(d)** Purpose	

Part II Investment and Annuity Contract Information

Where individual contracts are provided, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

4	Current value of plan's interest under this contract in the general account at year end	4	
5	Current value of plan's interest under this contract in separate accounts at year end	5	14394882

6 Contracts With Allocated Funds:

a State the basis of premium rates ▶

b	Premiums paid to carrier	6b	
c	Premiums due but unpaid at the end of the year	6c	
d	If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, enter amount.	6d	

Specify nature of costs ▶

e Type of contract: (1) ☐ individual policies (2) ☐ group deferred annuity

(3) ☐ other (specify) ▶

f If contract purchased, in whole or in part, to distribute benefits from a terminating plan check here ▶ ☐

7 Contracts With Unallocated Funds (Do not include portions of these contracts maintained in separate accounts)

a Type of contract: (1) ☐ deposit administration (2) ☐ immediate participation guarantee

(3) ☐ guaranteed investment (4) ☐ other ▶

b	Balance at the end of the previous year			7b	
c	Additions: (1) Contributions deposited during the year	7c(1)			
	(2) Dividends and credits	7c(2)			
	(3) Interest credited during the year	7c(3)			
	(4) Transferred from separate account	7c(4)			
	(5) Other (specify below) ▶	7c(5)			
	(6) Total additions			7c(6)	
d	Total of balance and additions (add **b** and **c(6)**)			7d	
e	Deductions:				
	(1) Disbursed from fund to pay benefits or purchase annuities during year	7e(1)			
	(2) Administration charge made by carrier	7e(2)			
	(3) Transferred to separate account	7e(3)			
	(4) Other (specify below) ▶	7e(4)			
	(5) Total deductions			7e(5)	
f	Balance at the end of the current year (subtract **e(5)** from **d**)			7f	

Part III Welfare Benefit Contract Information

If more than one contract covers the same group of employees of the same employer(s) or members of the same employee organization(s), the information may be combined for reporting purposes if such contracts are experience-rated as a unit. Where contracts cover individual employees, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

8 Benefit and contract type (check all applicable boxes)

a ☐ Health (other than dental or vision) **b** ☐ Dental **c** ☐ Vision **d** ☐ Life insurance
e ☐ Temporary disability (accident and sickness) **f** ☐ Long-term disability **g** ☐ Supplemental unemployment **h** ☐ Prescription drug
i ☐ Stop loss (large deductible) **j** ☐ HMO contract **k** ☐ PPO contract **l** ☐ Indemnity contract
m ☐ Other (specify) ▶

9 Experience-rated contracts:				
a Premiums: (1) Amount received	**9a(1)**			
(2) Increase (decrease) in amount due but unpaid	**9a(2)**			
(3) Increase (decrease) in unearned premium reserve	**9a(3)**			
(4) Earned (**(1)** + **(2)** - **(3)**)			**9a(4)**	
b Benefit charges (1) Claims paid	**9b(1)**			
(2) Increase (decrease) in claim reserves	**9b(2)**			
(3) Incurred claims (add **(1)** and **(2)**)			**9b(3)**	
(4) Claims charged			**9b(4)**	
c Remainder of premium: (1) Retention charges (on an accrual basis) --				
(A) Commissions	**9c(1)(A)**			
(B) Administrative service or other fees	**9c(1)(B)**			
(C) Other specific acquisition costs	**9c(1)(C)**			
(D) Other expenses	**9c(1)(D)**			
(E) Taxes	**9c(1)(E)**			
(F) Charges for risks or other contingencies	**9c(1)(F)**			
(G) Other retention charges	**9c(1)(G)**			
(H) Total retention			**9c(1)(H)**	
(2) Dividends or retroactive rate refunds. (These amounts were ☐ paid in cash, or ☐ credited.)			**9c(2)**	
d Status of policyholder reserves at end of year: (1) Amount held to provide benefits after retirement			**9d(1)**	
(2) Claim reserves			**9d(2)**	
(3) Other reserves			**9d(3)**	
e Dividends or retroactive rate refunds due. (Do not include amount entered in **c(2)**.)			**9e**	
10 Nonexperience-rated contracts:				
a Total premiums or subscription charges paid to carrier			**10a**	
b If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, other than reported in Part I, item 2 above, report amount.			**10b**	

Specify nature of costs ▶

Part IV Provision of Information

11 Did the insurance company fail to provide any information necessary to complete Schedule A? ☐ Yes ☒ No

12 If the answer to line 11 is "Yes," specify the information not provided. ▶

SCHEDULE C (Form 5500)	Service Provider Information	OMB No. 1210-0110
Department of the Treasury Internal Revenue Service Department of Labor Employee Benefits Security Administration Pension Benefit Guaranty Corporation	This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA). ▶ **File as an attachment to Form 5500.**	**2009** **This Form is Open to Public Inspection.**

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

A Name of plan
SWINERTON 401(K) & SAVINGS PLAN

B Three-digit plan number (PN) ▶ 001

C Plan sponsor's name as shown on line 2a of Form 5500
SWINERTON INCORPORATED

D Employer Identification Number (EIN)
93-1132374

Part I Service Provider Information (see instructions)

You must complete this Part, in accordance with the instructions, to report the information required for **each person** who received, directly or indirectly, $5,000 or more in total compensation (i.e., money or anything else of monetary value) in connection with services rendered to the plan or the person's position with the plan during the plan year. If a person received **only** eligible indirect compensation for which the plan received the required disclosures, you are required to answer line 1 but are not required to include that person when completing the remainder of this Part.

1 Information on Persons Receiving Only Eligible Indirect Compensation

a Check "Yes" or "No" to indicate whether you are excluding a person from the remainder of this Part because they received only eligible indirect compensation for which the plan received the required disclosures (see instructions for definitions and conditions).. . . . . ☐ Yes ☒ No

b If you answered line 1a "Yes," enter the name and EIN or address of each person providing the required disclosures for the service providers who received only eligible indirect compensation. Complete as many entries as needed (see instructions).

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosure on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

(b) Enter name and EIN or address of person who provided you disclosures on eligible indirect compensation

2. Information on Other Service Providers Receiving Direct or Indirect Compensation. Except for those persons for whom you answered "yes" to line 1a above, complete as many entries as needed to list each person receiving, directly or indirectly, $5,000 or more in total compensation (i.e., money or anything else of value) in connection with services rendered to the plan or their position with the plan during the plan year. (See instructions).

(a) Enter name and EIN or address (see instructions)

NEW YORK LIFE INVESTMENT MANAGEMENT

52-2206685

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
15 37 38 62 64	RETAINED BY EMPLOYER	66769	Yes [X] No [ ]	Yes [X] No [ ]	0	Yes [X] No [ ]

(a) Enter name and EIN or address (see instructions)

MERCER INVESTMENT CONSULTING

61-0736136

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
27	RETAINED BY EMPLOYER	39000	Yes [ ] No [X]	Yes [ ] No [ ]		Yes [ ] No [ ]

(a) Enter name and EIN or address (see instructions)

MOHLER, NIXON & WILLIAMS

77-0106234

(b) Service Code(s)	(c) Relationship to employer, employee organization, or person known to be a party-in-interest	(d) Enter direct compensation paid by the plan. If none, enter -0-.	(e) Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	(f) Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	(g) Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	(h) Did the service provider give you a formula instead of an amount or estimated amount?
10	RETAINED BY EMPLOYER	21000	Yes [ ] No [X]	Yes [ ] No [ ]		Yes [ ] No [ ]

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	**(c)** Relationship to employer, employee organization, or person known to be a party-in-interest	**(d)** Enter direct compensation paid by the plan. If none, enter -0-.	**(e)** Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	**(f)** Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	**(g)** Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	**(h)** Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	**(c)** Relationship to employer, employee organization, or person known to be a party-in-interest	**(d)** Enter direct compensation paid by the plan. If none, enter -0-.	**(e)** Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	**(f)** Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	**(g)** Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	**(h)** Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

(a) Enter name and EIN or address (see instructions)

(b) Service Code(s)	**(c)** Relationship to employer, employee organization, or person known to be a party-in-interest	**(d)** Enter direct compensation paid by the plan. If none, enter -0-.	**(e)** Did service provider receive indirect compensation? (sources other than plan or plan sponsor)	**(f)** Did indirect compensation include eligible indirect compensation, for which the plan received the required disclosures?	**(g)** Enter total indirect compensation received by service provider excluding eligible indirect compensation for which you answered "Yes" to element (f). If none, enter -0-.	**(h)** Did the service provider give you a formula instead of an amount or estimated amount?
			Yes ☐ No ☐	Yes ☐ No ☐		Yes ☐ No ☐

Part I Service Provider Information (continued)

3 If you reported on line 2 receipt of indirect compensation, other than eligible indirect compensation, by a service provider, and the service provider is a fiduciary or provides contract administrator, consulting, custodial, investment advisory, investment management, broker, or recordkeeping services, answer the following questions for (a) each source from whom the service provider received $1,000 or more in indirect compensation and (b) each source for whom the service provider gave you a formula used to determine the indirect compensation instead of an amount or estimated amount of the indirect compensation. Complete as many entries as needed to report the required information for each source.

(a) Enter service provider name as it appears on line 2	**(b)** Service Codes (see instructions)	**(c)** Enter amount of indirect compensation
(d) Enter name and EIN (address) of source of indirect compensation	**(e)** Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	

(a) Enter service provider name as it appears on line 2	**(b)** Service Codes (see instructions)	**(c)** Enter amount of indirect compensation
(d) Enter name and EIN (address) of source of indirect compensation	**(e)** Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	

(a) Enter service provider name as it appears on line 2	**(b)** Service Codes (see instructions)	**(c)** Enter amount of indirect compensation
(d) Enter name and EIN (address) of source of indirect compensation	**(e)** Describe the indirect compensation, including any formula used to determine the service provider's eligibility for or the amount of the indirect compensation.	

Part II Service Providers Who Fail or Refuse to Provide Information

4 Provide, to the extent possible, the following information for each service provider who failed or refused to provide the information necessary to complete this Schedule.

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

(a) Enter name and EIN or address of service provider (see instructions)	**(b)** Nature of Service Code(s)	**(c)** Describe the information that the service provider failed or refused to provide

Part III Termination Information on Accountants and Enrolled Actuaries (see instructions)

(complete as many entries as needed)

a Name:	**b** EIN:
c Position:	
d Address:	**e** Telephone:

Explanation:

a Name:	**b** EIN:
c Position:	
d Address:	**e** Telephone:

Explanation:

a Name:	**b** EIN:
c Position:	
d Address:	**e** Telephone:

Explanation:

a Name:	**b** EIN;
c Position:	
d Address:	**e** Telephone:

Explanation:

a Name:	**b** EIN;
c Position:	
d Address:	**e** Telephone:

Explanation:

SCHEDULE D (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

DFE/Participating Plan Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA).

▶ **File as an attachment to Form 5500.**

OMB No. 1210-0110

2009

This Form is Open to Public Inspection.

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

A Name of plan
SWINERTON 401(K) & SAVINGS PLAN

B Three-digit plan number (PN) ▶ 001

C Plan or DFE sponsor's name as shown on line 2a of Form 5500
SWINERTON INCORPORATED

D Employer Identification Number (EIN)
93-1132374

Part I Information on interests in MTIAs, CCTs, PSAs, and 103-12 IEs (to be completed by plans and DFEs)

(Complete as many entries as needed to report all interests in DFEs)

a Name of MTIA, CCT, PSA, or 103-12 IE: NEW YORK LIFE ANCHOR ACCOUNT

b Name of sponsor of entity listed in (a): NEW YORK LIFE INSURANCE COMPANY

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)
13-5582869-125	P	14394882

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

a Name of MTIA, CCT, PSA, or 103-12 IE:

b Name of sponsor of entity listed in (a):

c EIN-PN	**d** Entity code	**e** Dollar value of interest in MTIA, CCT, PSA, or 103-12 IE at end of year (see instructions)

Part II Information on Participating Plans (to be completed by DFEs)

(Complete as many entries as needed to report all participating plans)

a Plan name

b Name of plan sponsor	**c** EIN-PN

a Plan name

b Name of plan sponsor	**c** EIN-PN

a Plan name

b Name of plan sponsor	**c** EIN-PN

a Plan name

b Name of plan sponsor	**c** EIN-PN

a Plan name

b Name of plan sponsor	**c** EIN-PN

a Plan name

b Name of plan sponsor	**c** EIN-PN

a Plan name

b Name of plan sponsor	**c** EIN-PN

a Plan name

b Name of plan sponsor	**c** EIN-PN

a Plan name

b Name of plan sponsor	**c** EIN-PN

a Plan name

b Name of plan sponsor	**c** EIN-PN

a Plan name

b Name of plan sponsor	**c** EIN-PN

a Plan name

b Name of plan sponsor	**c** EIN-PN

a Plan name

b Name of plan sponsor	**c** EIN-PN

SCHEDULE H (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Financial Information

This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA), and section 6058(a) of the Internal Revenue Code (the Code).

▶ **File as an attachment to Form 5500.**

OMB No. 1210-0110

2009

This Form is Open to Public Inspection

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

A Name of plan
SWINERTON 401(K) & SAVINGS PLAN

B Three-digit plan number (PN) ▶ 001

C Plan sponsor's name as shown on line 2a of Form 5500
SWINERTON INCORPORATED

D Employer Identification Number (EIN)
93-1132374

Part I Asset and Liability Statement

1 Current value of plan assets and liabilities at the beginning and end of the plan year. Combine the value of plan assets held in more than one trust. Report the value of the plan's interest in a commingled fund containing the assets of more than one plan on a line-by-line basis unless the value is reportable on lines 1c(9) through 1c(14). Do not enter the value of that portion of an insurance contract which guarantees, during this plan year, to pay a specific dollar benefit at a future date. **Round off amounts to the nearest dollar.** MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 1b(1), 1b(2), 1c(8), 1g, 1h, and 1i. CCTs, PSAs, and 103-12 IEs also do not complete lines 1d and 1e. See instructions.

Assets		(a) Beginning of Year	(b) End of Year
a Total noninterest-bearing cash	1a		
b Receivables (less allowance for doubtful accounts):			
(1) Employer contributions	1b(1)		
(2) Participant contributions	1b(2)		
(3) Other	1b(3)		
c General investments:			
(1) Interest-bearing cash (include money market accounts & certificates of deposit)	1c(1)		
(2) U.S. Government securities	1c(2)		
(3) Corporate debt instruments (other than employer securities):			
(A) Preferred	1c(3)(A)		
(B) All other	1c(3)(B)		
(4) Corporate stocks (other than employer securities):			
(A) Preferred	1c(4)(A)		
(B) Common	1c(4)(B)		
(5) Partnership/joint venture interests	1c(5)		
(6) Real estate (other than employer real property)	1c(6)		
(7) Loans (other than to participants)	1c(7)		
(8) Participant loans	1c(8)	2163949	2312950
(9) Value of interest in common/collective trusts	1c(9)		
(10) Value of interest in pooled separate accounts	1c(10)	13998627	14394882
(11) Value of interest in master trust investment accounts	1c(11)		
(12) Value of interest in 103-12 investment entities	1c(12)		
(13) Value of interest in registered investment companies (e.g., mutual funds)	1c(13)	56805730	79077254
(14) Value of funds held in insurance company general account (unallocated contracts)	1c(14)		
(15) Other	1c(15)		

			(a) Beginning of Year	(b) End of Year
1d	Employer-related investments:			
	(1) Employer securities	1d(1)	43362184	48074322
	(2) Employer real property	1d(2)		
e	Buildings and other property used in plan operation	1e		
f	Total assets (add all amounts in lines 1a through 1e)	1f	116330490	143859408
	Liabilities			
g	Benefit claims payable	1g		
h	Operating payables	1h		
i	Acquisition indebtedness	1i		
j	Other liabilities	1j		
k	Total liabilities (add all amounts in lines 1g through1j)	1k	0	0
	Net Assets			
l	Net assets (subtract line 1k from line 1f)	1l	116330490	143859408

Part II Income and Expense Statement

2 Plan income, expenses, and changes in net assets for the year. Include all income and expenses of the plan, including any trust(s) or separately maintained fund(s) and any payments/receipts to/from insurance carriers. Round off amounts to the nearest dollar. MTIAs, CCTs, PSAs, and 103-12 IEs do not complete lines 2a, 2b(1)(E), 2e, 2f, and 2g.

	Income		(a) Amount	(b) Total
a	**Contributions:**			
	(1) Received or receivable in cash from: **(A)** Employers	2a(1)(A)	7050620	
	(B) Participants	2a(1)(B)	7929114	
	(C) Others (including rollovers)	2a(1)(C)	169890	
	(2) Noncash contributions	2a(2)		
	(3) Total contributions. Add lines **2a(1)(A), (B), (C),** and line **2a(2)**	2a(3)		15149624
b	**Earnings on investments:**			
	(1) Interest:			
	(A) Interest-bearing cash (including money market accounts and certificates of deposit)	2b(1)(A)		
	(B) U.S. Government securities	2b(1)(B)		
	(C) Corporate debt instruments	2b(1)(C)		
	(D) Loans (other than to participants)	2b(1)(D)		
	(E) Participant loans	2b(1)(E)	137499	
	(F) Other	2b(1)(F)		
	(G) Total interest. Add lines **2b(1)(A)** through **(F)**	2b(1)(G)		137499
	(2) Dividends: **(A)** Preferred stock	2b(2)(A)		
	(B) Common stock	2b(2)(B)		
	(C) Registered investment company shares (e.g. mutual funds)	2b(2)(C)	1363736	
	(D) Total dividends. Add lines **2b(2)(A)**, **(B)**, and **(C)**	2b(2)(D)		1363736
	(3) Rents	2b(3)		
	(4) Net gain (loss) on sale of assets: **(A)** Aggregate proceeds	2b(4)(A)	1156620	
	(B) Aggregate carrying amount (see instructions)	2b(4)(B)	1156620	
	(C) Subtract line **2b(4)(B)** from line **2b(4)(A)** and enter result	2b(4)(C)		0

		(a) Amount	(b) Total
2b (5) Unrealized appreciation (depreciation) of assets: (A) Real estate	2b(5)(A)		
(B) Other	2b(5)(B)	2344167	
(C) Total unrealized appreciation of assets. Add lines 2b(5)(A) and (B)	2b(5)(C)		2344167
(6) Net investment gain (loss) from common/collective trusts	2b(6)		
(7) Net investment gain (loss) from pooled separate accounts	2b(7)		433764
(8) Net investment gain (loss) from master trust investment accounts	2b(8)		
(9) Net investment gain (loss) from 103-12 investment entities	2b(9)		
(10) Net investment gain (loss) from registered investment companies (e.g., mutual funds)	2b(10)		17656051
c Other income	2c		
d Total income. Add all **income** amounts in column (b) and enter total	2d		37084841
Expenses			
e Benefit payment and payments to provide benefits:			
(1) Directly to participants or beneficiaries, including direct rollovers	2e(1)	9426986	
(2) To insurance carriers for the provision of benefits	2e(2)		
(3) Other	2e(3)		
(4) Total benefit payments. Add lines 2e(1) through (3)	2e(4)		9426986
f Corrective distributions (see instructions)	2f		
g Certain deemed distributions of participant loans (see instructions)	2g		
h Interest expense	2h		
i Administrative expenses: (1) Professional fees	2i(1)		
(2) Contract administrator fees	2i(2)	126769	
(3) Investment advisory and management fees	2i(3)	2168	
(4) Other	2i(4)		
(5) Total administrative expenses. Add lines 2i(1) through (4)	2i(5)		128937
j Total expenses. Add all **expense** amounts in column (b) and enter total	2j		9555923
Net Income and Reconciliation			
k Net income (loss). Subtract line 2j from line 2d	2k		27528918
l Transfers of assets:			
(1) To this plan	2l(1)		
(2) From this plan	2l(2)		

Part III Accountant's Opinion

3 Complete lines 3a through 3c if the opinion of an independent qualified public accountant is attached to this Form 5500. Complete line 3d if an opinion is not attached.

a The attached opinion of an independent qualified public accountant for this plan is (see instructions):

(1) [ ] Unqualified (2) [ ] Qualified (3) [X] Disclaimer (4) [ ] Adverse

b Did the accountant perform a limited scope audit pursuant to 29 CFR 2520.103-8 and/or 103-12(d)? [X] Yes [ ] No

c Enter the name and EIN of the accountant (or accounting firm) below:

(1) Name: MOHLER, NIXON & WILLIAMS (2) EIN: 77-0106234

d The opinion of an independent qualified public accountant is **not attached** because:

(1) [ ] This form is filed for a CCT, PSA, or MTIA. (2) [ ] It will be attached to the next Form 5500 pursuant to 29 CFR 2520.104-50.

Part IV Compliance Questions

4 CCTs and PSAs do not complete Part IV. MTIAs, 103-12 IEs, and GIAs do not complete 4a, 4e, 4f, 4g, 4h, 4k, 4m, 4n, or 5. 103-12 IEs also do not complete 4j and 4l. MTIAs also do not complete 4l.

During the plan year:

		Yes	No	Amount
a	Was there a failure to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102? Continue to answer "Yes" for any prior year failures until fully corrected. (See instructions and DOL's Voluntary Fiduciary Correction Program.)	4a		X	
b	Were any loans by the plan or fixed income obligations due the plan in default as of the close of the plan year or classified during the year as uncollectible? Disregard participant loans secured by participant's account balance. (Attach Schedule G (Form 5500) Part I if "Yes" is checked.)	4b		X	
c	Were any leases to which the plan was a party in default or classified during the year as uncollectible? (Attach Schedule G (Form 5500) Part II if "Yes" is checked.)	4c		X	
d	Were there any nonexempt transactions with any party-in-interest? (Do not include transactions reported on line 4a. Attach Schedule G (Form 5500) Part III if "Yes" is checked.)	4d		X	
e	Was this plan covered by a fidelity bond?	4e	X		2000000
f	Did the plan have a loss, whether or not reimbursed by the plan's fidelity bond, that was caused by fraud or dishonesty?	4f		X	
g	Did the plan hold any assets whose current value was neither readily determinable on an established market nor set by an independent third party appraiser?	4g	X		48074322
h	Did the plan receive any noncash contributions whose value was neither readily determinable on an established market nor set by an independent third party appraiser?	4h		X	
i	Did the plan have assets held for investment? (Attach schedule(s) of assets if "Yes" is checked, and see instructions for format requirements.)	4i	X		
j	Were any plan transactions or series of transactions in excess of 5% of the current value of plan assets? (Attach schedule of transactions if "Yes" is checked, and see instructions for format requirements.)	4j		X	
k	Were all the plan assets either distributed to participants or beneficiaries, transferred to another plan, or brought under the control of the PBGC?	4k		X	
l	Has the plan failed to provide any benefit when due under the plan?	4l		X	
m	If this is an individual account plan, was there a blackout period? (See instructions and 29 CFR 2520.101-3.)	4m		X	
n	If 4m was answered "Yes," check the "Yes" box if you either provided the required notice or one of the exceptions to providing the notice applied under 29 CFR 2520.101-3.	4n			

5a Has a resolution to terminate the plan been adopted during the plan year or any prior plan year? If yes, enter the amount of any plan assets that reverted to the employer this year ☐ **Yes** ☒ **No** **Amount:**

5b If, during this plan year, any assets or liabilities were transferred from this plan to another plan(s), identify the plan(s) to which assets or liabilities were transferred. (See instructions.)

5b(1) Name of plan(s)	**5b(2)** EIN(s)	**5b(3)** PN(s)

SCHEDULE R (Form 5500)

Department of the Treasury
Internal Revenue Service

Department of Labor
Employee Benefits Security Administration

Pension Benefit Guaranty Corporation

Retirement Plan Information

This schedule is required to be filed under section 104 and 4065 of the Employee Retirement Income Security Act of 1974 (ERISA) and section 6058(a) of the Internal Revenue Code (the Code).

▶ **File as an attachment to Form 5500.**

OMB No. 1210-0110

2009

This Form is Open to Public Inspection.

For calendar plan year 2009 or fiscal plan year beginning 01/01/2009 and ending 12/31/2009

A Name of plan
SWINERTON 401(K) & SAVINGS PLAN

B Three-digit plan number (PN) ▶ 001

C Plan sponsor's name as shown on line 2a of Form 5500
SWINERTON INCORPORATED

D Employer Identification Number (EIN)
93-1132374

Part I Distributions

All references to distributions relate only to payments of benefits during the plan year.

1 Total value of distributions paid in property other than in cash or the forms of property specified in the instructions **1**

2 Enter the EIN(s) of payor(s) who paid benefits on behalf of the plan to participants or beneficiaries during the year (if more than two, enter EINs of the two payors who paid the greatest dollar amounts of benefits):

EIN(s): 13-3808042

Profit-sharing plans, ESOPs, and stock bonus plans, skip line 3.

3 Number of participants (living or deceased) whose benefits were distributed in a single sum, during the plan year. **3**

Part II Funding Information (If the plan is not subject to the minimum funding requirements of section of 412 of the Internal Revenue Code or ERISA section 302, skip this Part)

4 Is the plan administrator making an election under Code section 412(d)(2) or ERISA section 302(d)(2)? ..... ☐ **Yes** ☐ **No** ☐ **N/A**

If the plan is a defined benefit plan, go to line 8.

5 If a waiver of the minimum funding standard for a prior year is being amortized in this plan year, see instructions and enter the date of the ruling letter granting the waiver. **Date:** Month _____ Day _____ Year _____

If you completed line 5, complete lines 3, 9, and 10 of Schedule MB and do not complete the remainder of this schedule.

6 **a** Enter the minimum required contribution for this plan year **6a**

b Enter the amount contributed by the employer to the plan for this plan year **6b**

c Subtract the amount in line 6b from the amount in line 6a. Enter the result (enter a minus sign to the left of a negative amount) **6c**

If you completed line 6c, skip lines 8 and 9.

7 Will the minimum funding amount reported on line 6c be met by the funding deadline? ..... ☐ **Yes** ☐ **No** ☐ **N/A**

8 If a change in actuarial cost method was made for this plan year pursuant to a revenue procedure providing automatic approval for the change or a class ruling letter, does the plan sponsor or plan administrator agree with the change? ..... ☐ **Yes** ☐ **No** ☐ **N/A**

Part III Amendments

9 If this is a defined benefit pension plan, were any amendments adopted during this plan year that increased or decreased the value of benefits? If yes, check the appropriate box(es). If no, check the "No" box. ..... ☐ **Increase** ☐ **Decrease** ☐ **Both** ☐ **No**

Part IV ESOPs (see instructions). If this is not a plan described under Section 409(a) or 4975(e)(7) of the Internal Revenue Code, skip this Part.

10 Were unallocated employer securities or proceeds from the sale of unallocated securities used to repay any exempt loan? ..... ☐ **Yes** ☒ **No**

11 **a** Does the ESOP hold any preferred stock? ..... ☐ **Yes** ☒ **No**

b If the ESOP has an outstanding exempt loan with the employer as lender, is such loan part of a "back-to-back" loan? (See instructions for definition of "back-to-back" loan.) ..... ☐ **Yes** ☒ **No**

12 Does the ESOP hold any stock that is not readily tradable on an established securities market? ..... ☒ **Yes** ☐ **No**

Part V Additional Information for Multiemployer Defined Benefit Pension Plans

13 Enter the following information for each employer that contributed more than 5% of total contributions to the plan during the plan year (measured in dollars). See instructions. *Complete as many entries as needed to report all applicable employers.*

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

---

a Name of contributing employer

b EIN **c** Dollar amount contributed by employer

d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box ☐ and see instructions regarding required attachment. Otherwise, enter the applicable date.)* Month _____ Day _____ Year _____

e Contribution rate information *(If more than one rate applies, check this box ☐ and see instructions regarding required attachment. Otherwise, complete items 13e(1) and 13e(2).)*
(1) Contribution rate (in dollars and cents) _____
(2) Base unit measure: ☐ Hourly ☐ Weekly ☐ Unit of production ☐ Other (specify):

14 Enter the number of participants on whose behalf no contributions were made by an employer as an employer of the participant for:

a The current year	**14a**	
b The plan year immediately preceding the current plan year	**14b**	
c The second preceding plan year	**14c**	

15 Enter the ratio of the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during the current plan year to:

a The corresponding number for the plan year immediately preceding the current plan year	**15a**	
b The corresponding number for the second preceding plan year	**15b**	

16 Information with respect to any employers who withdrew from the plan during the preceding plan year:

a Enter the number of employers who withdrew during the preceding plan year	**16a**	
b If item 16a is greater than 0, enter the aggregate amount of withdrawal liability assessed or estimated to be assessed against such withdrawn employers	**16b**	

17 If assets and liabilities from another plan have been transferred to or merged with this plan during the plan year, check box and see instructions regarding supplemental information to be included as an attachment. ☐

Part VI Additional Information for Single-Employer and Multiemployer Defined Benefit Pension Plans

18 If any liabilities to participants or their beneficiaries under the plan as of the end of the plan year consist (in whole or in part) of liabilities to such participants and beneficiaries under two or more pension plans as of immediately before such plan year, check box and see instructions regarding supplemental information to be included as an attachment ☐

19 If the total number of participants is 1,000 or more, complete items (a) through (c)

a Enter the percentage of plan assets held as:
Stock: _____% Investment-Grade Debt: _____% High-Yield Debt: _____% Real Estate: _____% Other: _____%

b Provide the average duration of the combined investment-grade and high-yield debt:
☐ 0-3 years ☐ 3-6 years ☐ 6-9 years ☐ 9-12 years ☐ 12-15 years ☐ 15-18 years ☐ 18-21 years ☐ 21 years or more

c What duration measure was used to calculate item 19(b)?
☐ Effective duration ☐ Macaulay duration ☐ Modified duration ☐ Other (specify):

REPORT OF INDEPENDENT AUDITORS

To the Swinerton 401(k) & Savings Committee:

We were engaged to audit the financial statements and supplemental schedule of the Swinerton 401(k) & Savings Plan (the Plan) as of December 31, 2009 and 2008, and for the years then ended, as listed in the accompanying table of contents. These financial statements and supplemental schedule are the responsibility of the Plan's management.

As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974 (ERISA), as amended, the Plan administrator instructed us not to perform, and we did not perform, any auditing procedures with respect to the information summarized in Note 5, which was certified by New York Life Trust Company, the custodian of the Plan, except for comparing such information with the related information included in the financial statements and supplemental schedule. We have been informed by the Plan administrator that the custodian holds the Plan's investment assets and executes investment transactions. The Plan administrator has obtained a certification from the custodian as of and for the years ended December 31, 2009 and 2008, that the information provided to the Plan administrator by the custodian is complete and accurate.

As described in Note 1, these financial statements and supplemental schedule were prepared on a modified cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

Because of the significance of the information that we did not audit, we are unable to, and do not, express an opinion on the accompanying financial statements and supplemental schedule taken as a whole. The form and content of the information included in the financial statements and supplemental schedule, other than that derived from the information certified by the custodian, have been audited by us in accordance with auditing standards generally accepted in the United States of America and, in our opinion, are presented in compliance with the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA.

Mohler, Nixon & Williams

MOHLER, NIXON & WILLIAMS
Accountancy Corporation

Campbell, California
July 28, 2010

635 Campbell Technology Parkway • Campbell, California 95008-5059 • Tel 408.369.2400 • Fax 408.879.9485
2600 El Camino Real, Suite 405 • Palo Alto, California 94306-1719 • Tel 650.494.3901 • Fax 650.494.6756
150 Spear Street, Suite 925 • San Francisco, California 94105-1535 • Tel 415.817.5070 • Fax 415.896.1721
www.mohlernixon.com
An independent firm associated with
MOORE STEPHENS
INTERNATIONAL LIMITED

Swinerton 401(k) & Savings Plan

Financial Statements

(Modified Cash Basis)

December 31, 2009 and 2008

(With Independent Auditors' Report Thereon)

SWINERTON 401(k) & SAVINGS PLAN

Financial Statements and Supplemental Schedule
December 31, 2009 and 2008

Table of Contents

Page

Report of Independent Auditors 1

Financial Statements:

Statements of Net Assets Available for Benefits 2
Statements of Changes in Net Assets Available for Benefits 3
Notes to Financial Statements 4

Supplemental Schedule as of December 31, 2009 20

Schedule H, Line 4i - Schedule of Assets (Held at End of Year) 21

REPORT OF INDEPENDENT AUDITORS

To the Swinerton 401(k) & Savings Committee:

We were engaged to audit the financial statements and supplemental schedule of the Swinerton 401(k) & Savings Plan (the Plan) as of December 31, 2009 and 2008, and for the years then ended, as listed in the accompanying table of contents. These financial statements and supplemental schedule are the responsibility of the Plan's management.

As permitted by 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974 (ERISA), as amended, the Plan administrator instructed us not to perform, and we did not perform, any auditing procedures with respect to the information summarized in Note 5, which was certified by New York Life Trust Company, the custodian of the Plan, except for comparing such information with the related information included in the financial statements and supplemental schedule. We have been informed by the Plan administrator that the custodian holds the Plan's investment assets and executes investment transactions. The Plan administrator has obtained a certification from the custodian as of and for the years ended December 31, 2009 and 2008, that the information provided to the Plan administrator by the custodian is complete and accurate.

As described in Note 1, these financial statements and supplemental schedule were prepared on a modified cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

Because of the significance of the information that we did not audit, we are unable to, and do not, express an opinion on the accompanying financial statements and supplemental schedule taken as a whole. The form and content of the information included in the financial statements and supplemental schedule, other than that derived from the information certified by the custodian, have been audited by us in accordance with auditing standards generally accepted in the United States of America and, in our opinion, are presented in compliance with the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA.

Mohler, Nixon & Williams

MOHLER, NIXON & WILLIAMS
Accountancy Corporation

Campbell, California
July 28, 2010

635 Campbell Technology Parkway • Campbell, California 95008-5059 • Tel 408.369.2400 • Fax 408.879.9485
2600 El Camino Real, Suite 405 • Palo Alto, California 94306-1719 • Tel 650.494.3901 • Fax 650.494.6756
150 Spear Street, Suite 925 • San Francisco, California 94105-1535 • Tel 415.817.5070 • Fax 415.896.1721
www.mohlernixon.com
An independent firm associated with
MOORE STEPHENS
INTERNATIONAL LIMITED

SWINERTON 401(k) & SAVINGS PLAN
(MODIFIED CASH BASIS)

STATEMENTS OF NET ASSETS AVAILABLE FOR BENEFITS

	December 31, 2009	December 31, 2008
Assets:		
Participant-directed investments, at fair value:		
Mutual funds	$ 79,077,254	$ 56,805,730
Pooled separate account	13,703,928	12,120,011
Loans to participants	2,312,950	2,163,949
Total participant-directed	95,094,132	71,089,690
Nonparticipant-directed investment:		
Common stock - Swinerton Incorporated	48,074,322	43,362,184
Net assets available for benefits, at fair value	143,168,454	114,451,874
Adjustment from fair value to contract value for fully benefit-responsive investment contract	690,954	1,878,616
Net assets available for benefits	$ 143,859,408	$ 116,330,490

See accompanying notes to financial statements.

SWINERTON 401(k) & SAVINGS PLAN
(MODIFIED CASH BASIS)

STATEMENTS OF CHANGES IN NET ASSETS AVAILABLE FOR BENEFITS

	Years ended December 31, 2009	2008
Additions (deductions) to net assets attributed to:		
Investment income (loss):		
Net appreciation (depreciation) in participant-directed investments	$ 17,593,801	$ (27,914,171)
Net appreciation in fair value of nonparticipant-directed investments	2,344,167	5,897,544
Interest	571,263	675,029
Dividends	1,363,736	1,577,722
	21,872,967	(19,763,876)
Contributions:		
Participants	7,929,114	8,460,373
Employer	7,050,620	8,690,237
Rollover	169,890	490,557
	15,149,624	17,641,167
Total additions (deductions)	37,022,591	(2,122,709)
Deductions from net assets attributed to:		
Benefits paid to beneficiaries and terminated employees	9,426,986	8,522,527
Administrative expenses	66,687	66,926
Total deductions	9,493,673	8,589,453
Net increase (decrease) in net assets	27,528,918	(10,712,162)
Net assets available for benefits:		
Beginning of year	116,330,490	127,042,652
End of year	$ 143,859,408	$ 116,330,490

See accompanying notes to financial statements.

NOTE 1 - THE PLAN AND ITS SIGNIFICANT ACCOUNTING POLICIES

General - The following description of the Swinerton 401(k) & Savings Plan (the Plan) provides only general information. Participants should refer to the Plan document and Summary Plan Description (SPD) for a more complete description of the Plan's provisions.

The Plan is a defined contribution plan and is a combination of a profit-sharing plan and a stock bonus plan (ESOP). The profit-sharing portion includes a "cash or deferred arrangement." The Plan is subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), as amended.

Swinerton Incorporated (the Company) and the following affiliated companies participate in the Plan: Swinerton Builders; Swinerton Property Services, Inc.; William P. Young Construction, Inc.; Swinerton Management and Consulting, Inc.; Harbison-Mahony-Higgins Builders, Inc.; and Lyda Swinerton Builders, Inc.

All employees who have completed three months of continuous service and a minimum of 250 hours of service are eligible to participate unless they are employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers.

Administration - The Plan is administered by the Swinerton 401(k) & Savings Committee (the Committee), which is appointed by the Swinerton Incorporated Board of Directors. New York Life Trust Company (NYLTC) is the custodian of the Plan and New York Life Investment Management (NYLIM) is the recordkeeper. All investment offerings and benefit payments are made by the custodian under the authorization of the Committee, which administers the Plan.

Pursuant to the Plan document, all expenses of administering the Plan and Trust shall be paid from Trust assets. The Company may, however, pay all or any portion of such expenses directly. During 2009 and 2008, the Plan paid administrative expenses totaling $66,687 and $66,926, respectively. Expenses paid by the Plan represent investment advisor fees, QDRO fees, Plan administrative fees, a $50 per participant loan origination fee and audit fees. Effective October 1, 2008, OnTarget managed account fees and portfolio assets investment management fees were waived on an ongoing basis for all participants.

Estimates - The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, and changes therein, and disclosure of contingent assets and liabilities. Actual results could differ from those estimates.

Basis of accounting - The accounting records of the Plan are maintained and the accompanying financial statements and supplemental schedule have been prepared on the cash basis of accounting modified to carry investments at fair value. Consequently, revenues are recognized when received rather than when earned, and expenses are recognized when paid rather than when the obligation is incurred. Accordingly, the financial statements are not intended to present net assets available for benefits and changes in net assets available for benefits in accordance with accounting principles generally accepted in the United States of America.

Forfeited accounts - Cash forfeitures for the profit-sharing portion of the Plan may be reallocated or used to reduce future Employer contributions. As of December 31, 2009 and 2008, forfeited, nonvested and unallocated cash profit-sharing forfeitures totaled $30,395 and $31,492, respectively. These forfeitures were reallocated to participants' accounts in the first quarters of 2010 and 2009, respectively.

Company stock in the profit-sharing portion of the Plan may be reallocated or used to reduce Employer contributions. As of December 31, 2009 and 2008, forfeited, nonvested and unallocated cash profit-sharing forfeitures totaled zero and $252, respectively. These 2008 forfeitures were used to reduce the 2009 profit sharing contribution.

Forfeitures for the ESOP portion of the Plan may be reallocated or used to reduce Employer contributions. As of December 31, 2009 and 2008, forfeited, nonvested and unallocated ESOP accounts totaled zero and $633, respectively. These 2008 ESOP forfeitures were reallocated to participants' accounts in the first quarter of 2009.

Investment valuation and income recognition - The Plan's investments are stated at fair value. Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. See Note 2 for discussion of fair value measurements.

Purchases and sales of securities are recorded on a settlement basis. Dividends and interest are recorded when received. Net realized and unrealized appreciation (depreciation) in investments consists of the change in unrealized appreciation or depreciation during the year, and the realized gain or loss on the sales of investments during the year. Acquisition costs are included in the cost of investments, and sales are recorded net of selling expenses. The cost of investments sold is computed on an average cost basis.

Investment contracts held by a defined contribution plan are required to be reported at fair value. However, contract value is the relevant measurement attributable for that portion of the net assets available for benefits of a defined contribution plan attributable to fully benefit-responsive investment contracts because contract value is the amount participants would receive if they were to initiate permitted transactions under the terms of the Plan. The Plan has a fully benefit-responsive pooled separate account as an investment.

The statements of net assets available for benefits present the adjustment of the fully benefit-responsive investment contracts from fair value to contract value. The statements of changes in net assets available for benefits are prepared on a contract value basis.

In 1996, the Plan entered into an investment contract with New York Life Insurance Company (NYLIC). NYLIC maintains the contributions in a pooled separate account. The account is credited with earnings on the underlying investments and charged for Plan withdrawals and administrative expenses charged by NYLIC. The contract is included in the financial statements at contract value (which represents contributions made under the contract, plus earnings, less withdrawals and administrative expenses), because it is fully benefit-responsive. There are no reserves against contract value for credit risk of the contract issues or otherwise. Certain events limit the ability of the Plan to transact at contract value with the issuer. Such events include the following: (i) amendments to the Plan documents (including complete or partial Plan termination or merger with another plan); (ii) changes to the Plan's prohibition on competing investment options or deletion of equity wash provisions; (iii) bankruptcy of the Plan sponsor or other Plan sponsor events (e.g. divestitures or spin-offs of a subsidiary) which cause a significant withdrawal from the Plan or (iv) the failure of the trust to qualify for exemption from federal income taxes or any required prohibited transaction exemption under ERISA. The Plan

Administrator does not believe that the occurrence of any such value event, which would limit the Plan's ability to transact at contract value with participants, is probable. The contract value of the investment contract reported at December 31, 2009 and 2008 was $14,394,882 and $13,998,627, respectively. The average yield was approximately 2.82% and 4.6% for 2009 and 2008, respectively. The crediting interest rate was 2.68% and 3.98% at December 31, 2009 and 2008, respectively. The crediting interest rate is reviewed daily and is based on an agreed-upon formula with the issuer, but cannot be less than 0%.

Voting rights - The Committee holds a proxy from the trustee which empowers the Committee to vote the stock held by the Plan. However, in the case of certain corporate matters which involve the shares and which relate to a corporate merger, consolidation, recapitalization, reclassification, liquidation, dissolution, sale of substantially all assets of a trade or business, or a similar transaction, participants are entitled to direct the voting of shares allocated to their accounts, whether or not vested.

Income tax status - The Internal Revenue Service (IRS) has determined and informed the Company by a letter dated March 31, 2005, that the Plan and related Trust are designed in accordance with the applicable sections of the Internal Revenue Code (IRC). On January 22, 2010, the Swinerton 401(k) & Savings Plan EGTRRA Restatement As Amended and Restated January 1, 2009 was submitted to the IRS for approval and letter of determination. The approval and determination letter remain pending. The Plan administrator believes that the Plan is designed and is currently being operated in compliance with the applicable requirements of the IRC.

Reclassifications - Certain reclassifications were made in the 2008 financial statements to conform to the 2009 presentation.

Risks and uncertainties - The Plan may invest in various types of investment securities and Swinerton Incorporated stock. Investment securities are exposed to various risks, such as interest rate, market fluctuations and credit risks. Due to the risk associated with certain investment securities, it is at least reasonably possible that changes in market values, interest rates or other factors in the near term would materially affect participants' account balances and the amounts reported in the Statements of Net Assets Available for Benefits and the Statements of Changes in Net Assets Available for Benefits.

Recent accounting pronouncements - In January 2010, the Financial Accounting Standards Board issued Accounting Standards Update 2010-06 which expanded the required disclosures about fair value measurements. In particular, this guidance requires: 1) separate disclosure of the amounts of significant transfers in and out of level 1 and level 2 fair value measurements along with the reasons for such transfers, 2) information about purchases, sales, issuances and settlements to be presented separately in the reconciliation for level 3 fair value measurements, 3) fair value measurement disclosures for each class of assets and liabilities and 4) disclosures about the valuation techniques and inputs used to measure fair value for both recurring and nonrecurring fair value measurements for fair value measurements that fall in either level 2 or level 3. This guidance is effective for annual reporting periods beginning after December 15, 2009 except for 2) above which is effective for fiscal years beginning after December 15, 2010. The Company is currently evaluating the impact that this guidance will have on the Plan's financial statement disclosures.

NOTE 2 - FAIR VALUE MEASUREMENTS

The fair value measurements standard establishes a framework for measuring fair value. That framework provides a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (level 1 measurements) and the lowest priority to unobservable inputs (level 3 measurements). The three levels of the fair value hierarchy under the standard are described below:

Level 1 - Inputs to the valuation methodology are unadjusted quoted prices for identical assets or liabilities in active markets that the Plan has the ability to access.

Level 2 - Inputs to the valuation methodology include:

- Quoted market prices for similar assets or liabilities in active markets;
- Quoted prices for identical or similar assets or liabilities in inactive markets;

- Inputs other than quoted prices that are observable for the asset or liability;

- Inputs that are derived principally from or corroborated by observable market data by correlation or other means.

If the asset or liability has a specified (contractual) term, the level 2 input must be observable for substantially the full term of the asset or liability.

Level 3 - Inputs to the valuation methodology are unobservable and significant to the fair value measurement.

The asset's or liability's fair value measurement level within the fair value hierarchy is based on the lowest level of any input that is significant to the fair value measurement. Valuation techniques used need to maximize the use of observable inputs and minimize the use of unobservable inputs.

Following is a description of the valuation methodologies used for assets measured at fair value. There have been no changes in the methodologies used at December 31, 2009 and 2008.

The Plan's investments are stated at fair value except for investments in insurance company investment accounts (Note 1), Swinerton Incorporated stock and loans to participants. Investments in mutual funds are valued at quoted market prices. The custodian's value of the assets is based on the quoted market value of the underlying assets comprising the funds. The Plan has a pooled separate account fund with NYLTC that under normal conditions is 88% invested in long term bonds. Investments are always redeemable by the investee and may be subject to a 10% limitation. The common stock of the Company is not publicly traded. Pursuant to the Company's shareholder agreement, the Company determines the current value of the Company common stock by dividing the Company's gross equity by the number of shares of stock outstanding, as adjusted, at year end (Value Per Share). The Plan document states that the Committee, in determining fair market value, utilize the valuation formula set forth in the Bylaws of the Company which refers to the shareholder agreement "Value Per Share." The Company follows a consistent valuation methodology and believes that the Value Per Share of Company common stock as of the most recent calendar year end approximates the fair value. Because of the inherent subjectivity in any valuation, those estimated values may differ significantly from the values that would have been used had a ready market for the securities existed. Loans to participants are valued at cost, which approximates fair value.

Investments in insurance company investment contracts are stated at fair value adjusted to contract value which is equal to principal balance plus accrued interest. As provided in the Fair Value Measurement Standards, an investment contract is generally permitted to be valued at contract value, rather than fair value, to the extent it is fully benefit-responsive. The fair value of the investment contract is calculated by discounting the related cash flows based on current yields of similar instruments with comparable durations.

The methods described above may produce a fair value calculation that may not be indicative of net realizable value or reflective of future fair values. Furthermore, while the Plan believes its valuation methods are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments could result in a different fair value measurement at the reporting date.

The following table sets forth by level, within the fair value hierarchy, the Plan's assets at fair value as of December 31, 2009 and 2008:

	Assets at fair value as of December 31, 2009			
	Level 1	Level 2	Level 3	Total
Pooled separate accounts:				
Fixed income funds	$ -	$ 1,644,471	$ -	$ 1,644,471
Bond funds		12,059,457		12,059,457
Total pooled separate accounts	-	13,703,928	-	13,703,928
Mutual funds:				
Bond funds	16,621,281			16,621,281
Growth funds	17,987,483			17,987,483
Value funds	20,096,937			20,096,937
Blend funds	23,716,638			23,716,638
Sector fund	654,915			654,915
Total mutual funds	79,077,254	-	-	79,077,254
Participant loans			2,312,950	2,312,950
Swinerton Incorporated common stock			48,074,322	48,074,322
Total assets at fair value	$79,077,254	$13,703,928	$50,387,272	143,168,454

	Assets at fair value as of December 31, 2008			
	Level 1	Level 2	Level 3	Total
Mutual funds	$56,805,730			$56,805,730
Pooled separate account		$12,120,011		12,120,011
Swinerton Incorporated common stock			$43,362,184	43,362,184
Participant loans			2,163,949	2,163,949
Total assets at fair value	$56,805,730	$12,120,011	$45,526,133	$114,451,874

The table below sets forth a summary of changes in the fair value of the Plan's level 3 assets for the year ended December 31, 2009.

	Swinerton Incorporated common stock	Participant loans
Balance, beginning of year	$ 43,362,184	$ 2,163,949
Realized gains (losses)	1,156,620	
Unrealized gains (losses) relating to instruments still held at the reporting date	2,344,167	
Purchases, sales, issuances and settlements (net)	1,211,351	149,001
Balance, end of year	$ 48,074,322	$ 2,312,950

The table below sets forth a summary of changes in the fair value of the Plan's level 3 assets for the year ended December 31, 2008.

	Swinerton Incorporated common stock	Participant loans
Balance, beginning of year	$ 33,060,526	$ 2,057,367
Realized gains (losses)	838,833	
Unrealized gains (losses) relating to instruments still held at the reporting date	5,897,544	
Purchases, sales, issuances and settlements (net)	3,565,281	106,582
Balance, end of year	$ 43,362,184	$ 2,163,949

The amount of net gains or losses for the year ended December 31, 2009 included in the statement of changes in net assets available for benefits attributable to the change in unrealized gains or losses relating to assets still held at December 31, 2009: $2,344,167.

NOTE 3 - RELATED PARTY TRANSACTIONS

Certain Plan investments are managed by an affiliate of NYLTC, the Plan custodian; therefore, these transactions qualify as party-in-interest transactions.

The Plan also invests in shares of Company stock. As of December 31, 2009 and 2008, the Plan owned approximately 45% and 38%, respectively, of the Company. As the Company is the Plan Sponsor, these transactions qualify as party-in-interest transactions.

On April 1, 1997, the Plan entered into a Revolving Credit Loan Agreement with the Company whereby the Company advances funds on an interest-free, unsecured basis to enable the Plan to pay benefit distributions. Repayment of these loans are made from Company contributions or from proceeds from the sale of Company stock to the Company.

In July 2009, the Company loaned $1,240,626 and $1,464,374 to the Plan in order to finance benefits paid to terminated participants with ESOP balances in the ESOP portion of the Plan and Company stock in the profit-sharing portion of the Plan, respectively. The Company stock balances in the ESOP and profit-sharing portions of the Plan were purchased at $48.38 per share, the then fair value, as approximated by the Company. In December 2009, the Employer approved the retirement of the loans through the 2009 discretionary ESOP and profit-sharing contributions.

In July 2008, the Company loaned $992,852 to the Plan in order to finance benefits paid to terminated participants with ESOP balances. In December 2008, the Company loaned $1,325,116 to the Plan in order to finance benefits paid to terminated participants with Company stock balances in the profit-sharing portion of the Plan. The Company stock in the ESOP and profit-sharing portions of the Plan was purchased at $41.80 per share, the then fair value, as approximated by the Company. In December 2008, the Employer approved the retirement of the loans through the 2008 discretionary ESOP and profit-sharing contributions.

NOTE 4 - PARTICIPATION AND BENEFITS

Participant and employer contributions - Effective January 1, 2008, newly eligible employees who fail to affirmatively make a deferral election (including an election to contribute zero percent (0%) of their eligible compensation to the Plan) within the time prescribed by the Committee, shall be deemed to have elected to defer three percent (3%) of his or her eligible compensation and will be automatically enrolled in 401(k) contributions. If no investment election is made, the deferrals and cash matching contributions are invested in the Mainstay Balanced Fund, the Plan's qualified default investment alternative (QDIA).

Through December 31, 2009, each participant could elect to defer and have the Company deposit up to 50% of their eligible compensation up to the maximum amount allowed by statute. The Company will match these deferrals in such amounts as may be determined by the Board of Directors for each Plan year.

The Company's Board of Directors approved the 2009 Employer Paid Safe Harbor Enhanced Matching Contribution. The Safe Harbor Enhanced Matching is 50% in Company stock and 50% in cash and is 100% vested immediately. The match formula is 100% on the first 3% of participants' eligible compensation deferred as 401(k) contributions and 50% on the next 3% of participants' eligible compensation deferred as 401(k) contributions.

Participants who are or will be age 50 or over during the calendar year are permitted to make "catch-up" contributions on a pretax basis to the Plan up to the maximum amount of $5,500 and $5,000 for 2009 and 2008, respectively. Catch-up contributions will receive a Company matching contribution when treated as 401(k) contributions in order to reach the contribution limit permitted under the Plan.

Company contributions to the ESOP and profit-sharing portions of the Plan can be in cash and/or shares of Company stock and are at the discretion of the Company's Board of Directors. The Board of Directors may determine that Company contributions can be paid by cancellation of indebtedness for any loan made by the Company to the Plan. All contributions are paid directly to the Plan by the Company.

For 2009 and 2008, the Company's Board of Directors approved ESOP and profit-sharing contributions in the form of the Company stock at the rate of 1.5% and 2.5% of eligible pay to all eligible participants in affiliated companies employed on December 31, 2009 and 2008, respectively. All contributions are 100% vested.

Profit-sharing contributions for 2009 totaled $1,464,374 and were allocated to participants' accounts on March 31, 2010. Profit-sharing contributions for 2008 totaled $1,325,116 and were allocated to participants' accounts on March 31, 2009.

ESOP contributions for 2009 totaled $1,240,626 and were allocated to participants' accounts on March 31, 2010. ESOP contributions for 2008 totaled $992,852 and were allocated to participants' accounts on March 31, 2009.

Operational errors - During 2009 and 2008, the Plan administrator discovered certain operational errors related to the Plan. The Plan administrator subsequently corrected these errors under the Employer Plan Compliance Resolution Self-Correction Program.

Vesting - Participants are immediately vested in their salary deferrals, rollover contributions, stock and cash match, ESOP, and profit-sharing balances in the form of cash and Company stock and earnings thereon. For Company cash matching contributions, prior to 2005, participants are vested in accordance with the following schedule: less than two years from becoming eligible to participate - zero, two years - 25%, three years - 50%, four years - 75%, and five years - 100%.

Participant directed accounts - Except for Company discretionary and matching contributions made in the form of Company stock, participants have a choice of investments for the profit-sharing portion of their Plan assets. Each participant may specify the amount of Plan assets which are invested in any of the participant-directed investment fund options offered under the Plan. The Company stock in the profit-sharing portion of the Plan is nonparticipant directed.

Participant accounts - Each participant's account is credited with the participant's contribution and allocations of (a) the Company's contributions, (b) Plan earnings or losses, (c) forfeitures of terminated participants' nonvested accounts, and charged with an allocation of administrative expenses. Allocations are based on participant earnings or account balances, as defined by the Plan document. The benefit to which a participant is entitled is the benefit that can be provided from the participant's vested account.

Payment of benefits - Distribution of cash benefits for the profit-sharing portion of the Plan is made in a single lump sum. Distributions are made upon retirement, disability, death, or termination of service immediately following the participant's request for distribution and receipt of a completed Distribution Election Form by NYLIM. A participant's distribution will not occur prior to 30 days after termination.

Distribution of benefits in Company stock in the ESOP and profit-sharing portions of the Plan is normally made upon retirement, disability, death or termination of service in a lump sum in the year following the year of termination upon consent by the participant and receipt of a completed Distribution Election Form by NYLIM, subject to approval by the Committee. The Board has the right to select the benefit distribution date at its discretion for the ESOP portion of the Plan.

The threshold for automatic payouts to terminated participants who have not consented to distribution of their account balances is $1,000.

Loans to participants - Participants may request a loan of up to the lesser of 50% of the vested account balance, excluding Company stock, or $50,000. The minimum amount of a participant loan is $1,000. A maximum of two loans may be outstanding at any one time. Interest on participant loans is equal to the prime rate in effect on the date the loan is requested, plus 1%. As of December 31, 2009, the interest rate range on outstanding loans is 4.25% to 9.5%, and maturity dates range from January 2010 to August 2019.

Repayment of principal and interest must be made through payroll withholding. The repayment period may not exceed five years unless the proceeds are used to acquire a principal residence, in which case such period may not exceed ten years.

NOTE 5 - CERTIFIED INFORMATION

In accordance with 29 CFR 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under ERISA, NYLTC has certified the current value of assets held at December 31, 2009 and 2008, and transactions entered into during the respective years, that were used in the preparation of the accompanying financial statements and supplemental schedule. The following table presents the contract value or fair value of investment funds that include 5% or more of the Plan's net assets at December 31:

	2009	2008
Mutual funds at fair value as determined by quoted market price:		
PIMCO Total Return Fund Admin	$16,621,281	$14,431,984
Dodge & Cox Stock Fund	16,752,372	12,715,571
Mainstay S&P Index Fund 1	6,724,587	7,080,571
T. Rowe Price Mid-Cap Growth Fund Advisor	9,611,889	6,089,725
American Funds EuroPacific Growth Fund R-3	8,432,312	3,693,579
Other funds individually less than 5% of Plan net assets	20,934,813	12,794,300
	79,077,254	56,805,730
Pooled separate account at contract value, which approximates fair value - New York Life Insurance Anchor Account I	14,394,882	13,998,627
Common stock of Swinerton Incorporated at estimated fair value (nonparticipant-directed)	48,074,322	43,362,184
Loans to participants at cost, which approximates fair value, interest rates ranging from 4.25% to 9.5%	2,312,950	2,163,949
Total investments	$143,859,408	$116,330,490

	2009	2008
Dividends and interest	$ 1,934,999	$ 2,252,751

The Plan's investments (including gains and losses on investments bought and sold, as well as held during the year) appreciated (depreciated) in value as follows for the years ended December 31:

	2009	2008
Mutual funds (participant-directed)	$ 17,593,801	($ 27,914,171)
Common stock (nonparticipant-directed)	2,344,167	5,897,544
	$ 19,937,968	($ 22,016,627)

Information about other significant components of the changes in net assets relating to the nonparticipant-directed investments is as follows for the years ended December 31:

	2009	2008
Company contributions	$ 5,072,971	$ 6,722,082
Benefits paid to participants	(2,705,000)	(2,317,968)
	$ 2,367,971	$ 4,404,114

NOTE 6 - PLAN TERMINATION OR MODIFICATION

The Company intends to continue the Plan indefinitely for the benefit of its participants; however, it reserves the right to terminate or modify the Plan at any time by resolution of its Board of Directors and subject to the provisions of ERISA. In the event the Plan is terminated in the future, participants would become fully vested in their accounts.

NOTE 7 - SUBSEQUENT EVENTS

Effective January 1, 2010, the Company paid match was changed from a Safe-Harbor Enhanced Matching Contribution to a Safe-Harbor Basic Matching Contribution. The Safe-Harbor Basic Matching formula is 100% on the first 3% of participants' eligible compensation deferred as 401(k) contributions and 50% on the next 2% of participants' eligible compensation deferred as 401(k) contributions.

The Plan has evaluated subsequent events through July 28, 2010, which is the date the financial statements were available to be issued.

SUPPLEMENTAL SCHEDULE

SWINERTON 401(K) & SAVINGS PLAN

EIN: 93-1132374

PLAN #001

SCHEDULE H, LINE 4i - SCHEDULE OF ASSETS (HELD AT END OF YEAR) DECEMBER 31, 2009

	Identity of issue, borrower, lessor or similar party	Description of investment including maturity date, rate of interest, collateral, par or maturity value	Cost	Current value
*	NYL Insurance Anchor Account I	Pooled Separate Account	(1)	$ 14,394,882
	PIMCO Total Return Fund Admin	Mutual Fund	(1)	16,621,281
	Dodge & Cox Stock Fund	Mutual Fund	(1)	16,752,372
*	MainStay Balanced Fund R1	Mutual Fund	(1)	3,644,213
*	Mainstay S&P 500 Index Fund I	Mutual Fund	(1)	6,724,587
	TCW Small Cap Growth Fund I	Mutual Fund	(1)	4,080,361
*	MainStay Large Cap Growth Fund R1	Mutual Fund	(1)	4,295,234
	T. Rowe Price Mid-Cap Growth Fund Advisor	Mutual Fund	(1)	9,611,889
	Wells Fargo Advantage Small Cap Value Fund Inv	Mutual Fund	(1)	4,915,525
	Principal Real Estate Securities Fund R-4	Mutual Fund	(1)	654,915
	American Funds EuroPacific Growth Fund R-3	Mutual Fund	(1)	8,432,312
	Oakmark International Fund II	Mutual Fund	(1)	3,344,565
*	Swinerton Incorporated	Plan Sponsor Common Stock	$26,356,912	48,074,322
*	Participant loans	Interest rates ranging from 4.25% to 9.5%		2,312,950
			Total	$ 143,859,408

* Party-in-interest

(1) Cost information not required as investments are participant directed.

SWINERTON 401(K) & SAVINGS PLAN

EIN: 93-1132374

PLAN #001

SCHEDULE H, LINE 4i - SCHEDULE OF ASSETS (HELD AT END OF YEAR) DECEMBER 31, 2009

	Identity of issue, borrower, lessor or similar party	Description of investment including maturity date, rate of interest, collateral, par or maturity value	Cost	Current value
*	NYL Insurance Anchor Account I	Pooled Separate Account	(1)	$ 14,394,882
	PIMCO Total Return Fund Admin	Mutual Fund	(1)	16,621,281
	Dodge & Cox Stock Fund	Mutual Fund	(1)	16,752,372
*	MainStay Balanced Fund R1	Mutual Fund	(1)	3,644,213
*	Mainstay S&P 500 Index Fund I	Mutual Fund	(1)	6,724,587
	TCW Small Cap Growth Fund I	Mutual Fund	(1)	4,080,361
*	MainStay Large Cap Growth Fund R1	Mutual Fund	(1)	4,295,234
	T. Rowe Price Mid-Cap Growth Fund Advisor	Mutual Fund	(1)	9,611,889
	Wells Fargo Advantage Small Cap Value Fund Inv	Mutual Fund	(1)	4,915,525
	Principal Real Estate Securities Fund R-4	Mutual Fund	(1)	654,915
	American Funds EuroPacific Growth Fund R-3	Mutual Fund	(1)	8,432,312
	Oakmark International Fund II	Mutual Fund	(1)	3,344,565
*	Swinerton Incorporated	Plan Sponsor Common Stock	$26,356,912	48,074,322
*	Participant loans	Interest rates ranging from 4.25% to 9.5%		2,312,950
			Total	$ 143,859,408

* Party-in-interest

(1) Cost information not required as investments are participant directed.