

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE RECEIVERSHIP OF EQUITYLINE
SPV LIMITED PARTNERSHIP**

B E T W E E N:

EQUITABLE BANK

Applicant

and

EQUITYLINE SPV LIMITED PARTNERSHIP

Respondent

**FACTUM OF THE RECEIVER, KSV RESTRUCTURING INC.
(Approval of Mortgage Adjudication Protocol)
Returnable April 30, 2026**

April 14, 2026

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TO: THE SERVICE LIST

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PART I - OVERVIEW

1. The Receiver¹ brings this motion for an order approving its form of protocol (the “**Mortgage Adjudication Protocol**”) governing the process within which allegations of fraud made by eight mortgagors (the “**Objecting Mortgagors**”) of the Debtor’s mortgage portfolio are to be adjudicated.
2. The Objecting Mortgagors, whose mortgages in the aggregate total approximately \$4 million, each allege that their respective mortgage (each, an “**Impugned Mortgage**”) is fraudulent, having been procured through a predatory door-to-door sales scheme, which has become increasingly prevalent in Ontario. This Court has recently held it to be an important matter of policy that such allegations of mortgage fraud be adjudicated swiftly on the merits.²
3. This policy imperative is particularly pressing in the case of the Objecting Mortgagors, who are elderly, vulnerable and, in some cases, require the ability to sell their homes to transition to assisted-living accommodations. To date, at least two Objecting Mortgagors have passed away before their claims could be adjudicated on the merits.
4. In these circumstances, an adjudication process must be expedient, cost-effective, balanced and fair. This is reinforced by the amounts at issue and the receivership context, which is intended to provide an efficient, single proceeding for resolving disputes.

¹ Capitalized terms not otherwise defined herein have the meanings ascribed thereto in the Supplement to the Fourth Report of the Receiver dated March 30, 2026 (the “**Supplemental Report**”), Tab 3 of the Motion Record of the Receiver dated March 30, 2026 (the “**MR**”).

² [Gold v. Kamra et al. Court File No. CV-23-00703334-0000](#) – Endorsement of Justice Koehnen dated February 23, 2026 [“*Kamra*”] at para 16.

5. The Mortgage Adjudication Protocol meets these criteria. Its terms are supported by the Objecting Mortgagors and the Applicant, Equitable Bank, and is unopposed by any party alleged to have been complicit in the underlying frauds (the “**Interested Parties**”). It is opposed only by one stakeholder, FCT Insurance Company Ltd. (“**FCT**”), a title insurer, who brings a cross-motion for approval of its form of protocol (the “**Insurer Protocol**”).
6. The Insurer Protocol does not fairly balance the interests of the Debtor’s stakeholders, nor does it employ a single proceeding model. It proposes a process that is unnecessarily protracted, disproportionately costly to the amounts at issue and does not provide for the resolution of all issues, leaving questions of coverage under the policies unaddressed and subject to future litigation.
7. In response to FCT’s concerns, the Receiver has substantially revised the Mortgage Adjudication Protocol to accommodate FCT, including adding a Notice of Claim to allow for additional arguments to be pleaded and requiring summary trials for Impugned Mortgages not settled at prior mediation. Nonetheless, FCT maintains its objection on the basis that the Mortgage Adjudication Protocol would, in its view, constitute an impermissible “amendment” to its policies, and that this Court lacks the jurisdiction to approve or give effect to such purported amendments.
8. FCT’s objections are unfounded as they overstate its right to control the Receiver as absolute, and its further claim that the Court lacks jurisdiction to limit its control rights is contrary to binding precedent. The Supreme Court has held that section 243(1) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) confers courts with the “broadest possible mandate” authorizing them to respond to the exigencies of an insolvency

proceeding. In doing so, the Court not only does what “justice dictates” but what “practicality demands”.³ This broad jurisdiction has been exercised to empower receivers to advance litigation in a particular manner notwithstanding that applicable contracts may provide for a different process.⁴

9. Further, the Ontario Court of Appeal has held that an insurer’s right of control is limited where a “reasonable apprehension of conflict” exists, in which case the insured may assume control.⁵ The Mortgage Adjudication Protocol addresses two such conflicts. First, FCT has broadly reserved rights to deny coverage, including based on the Debtor’s conduct, which entitles the insured to control and obtain a defence “free from divided loyalties”.⁶ Second, the Receiver, as a court officer, owes fiduciary duties to all stakeholders and “is not the agent of the debtor or the creditor or of any other party”,⁷ including insurers. The Mortgage Adjudication Protocol thus merely reflects established limits on FCT’s right to control the Receiver as an insured.
10. The Mortgage Adjudication Protocol fairly accounts for the disparate interests of all stakeholders, including FCT, and should therefore be approved.

PART II - SUMMARY OF FACTS

A. Background

11. The Debtor is part of a group of companies known as the “EquityLine Group”, a collection of entities that were previously in the business of funding residential mortgages, the

³ [Peace River Hydro Partners v. Petrowest Corp.](#), 2022 SCC 41 [“*Peace River*”] at paras 9 and 148.

⁴ *Ibid.*

⁵ [Hoang v. Vicentini](#), 2015 ONCA 780 [“*Hoang*”]; and [Brockton \(Municipality\) v. Frank Cowan Co. Ltd.](#), 2002 CanLII 7392

⁶ [Nazal v. Hiruy and Solomon](#), 2026 ONSC 834 [“*Nazal*”] at para 75.

⁷ [Toronto-Dominion Bank v. Usarco Ltd.](#), 2001 CanLII 24004 [“*Usarco*”] at para 29.

majority of which were funded by loans advanced by Equitable Bank. The Debtor, in turn, held the beneficial interest of the mortgages in the Mortgage Portfolio.⁸

12. The Debtor defaulted on its loans to Equitable Bank. Following the discovery of several irregularities in the management of the Mortgage Portfolio, Equitable Bank applied for the appointment of a receiver, which was granted on August 8, 2024.⁹
13. Upon its appointment, the Receiver reviewed the Mortgage Portfolio and discovered eight mortgages (i.e., the Impugned Mortgages) that were the subject of fraud allegations by the Objecting Mortgagors. The value of the Impugned Mortgages to the Debtor's estate is just over \$4 million, averaging \$501,875 each.¹⁰ The allegations were raised either in pleadings filed in pre-receivership mortgage enforcement proceedings that were stayed by the Receivership Order or were asserted directly to the Receiver.¹¹
14. The allegations of the Objecting Mortgagors are, generally, similar. In particular, the Objecting Mortgagors allege that individuals attended, without solicitation, at the homes of certain elderly homeowners and, through a series of allegedly fraudulent acts, including, in some cases, allegedly forging signatures on behalf of the homeowners, induced the Objecting Mortgagors to agree to charges registered on title to their homes. The charges were purportedly to finance home-improvement services that were allegedly unnecessary and/or not provided, or to secure the discharge of notices of security interest relating to

⁸ Fourth Report of the Receiver dated January 5, 2026 (the "Fourth Report") at section 2.1, para 1, MR, Tab 2, p. 31.

⁹ Fourth Report at section 1.0, para 1, MR, Tab 2, p. 30.

¹⁰ Supplemental Report at section 3.0, para 1(e), MR, Tab 3, p. 76.

¹¹ Fourth Report at section 2.1, para 3, MR, Tab 2, p. 31.

home comfort equipment. In some cases, the elderly homeowners were impecunious or otherwise vulnerable.¹²

B. Relevant Procedural History

(i) *Summary adjudication of Jank Mortgage*

15. The validity of one of the Impugned Mortgages, that of Ms. Jank, has already been adjudicated by this Court in the receivership proceedings in a summary manner.¹³
16. This process required Ms. Jank and the Debtor to deliver comprehensive evidence and documentary records setting out their respective positions, following which the Receiver was required to review the evidentiary record, make a determination on the enforceability of the Jank Mortgage, and bring a motion seeking Court approval of that determination.
17. TitlePLUS did not oppose this summary process,¹⁴ nor did it ultimately oppose the findings of the Receiver that the Jank Mortgage constituted a “fraudulent instrument” under the *Land Titles Act* (Ontario) necessitating that it be deleted from title to Ms. Jank’s property. On November 26, 2025, the Court accepted the Receiver’s determination and ordered that the Jank Mortgage be deleted.¹⁵

(ii) *First adjournment of Receiver’s motion to approve its protocol*

18. Following the resolution of the Jank Mortgage, the Receiver developed the Mortgage Adjudication Protocol. The Receiver initially sought its approval at a hearing scheduled

¹² Fourth Report at section 2.1, para 4, MR, Tab 2, p. 31

¹³ [Endorsement of Justice Kimmel dated May 13, 2025](#) at para 6.

¹⁴ *Ibid.* Counsel for TitlePLUS is noted in attendance in the participant information form.

¹⁵ [Endorsement of Justice Kimmel dated November 26, 2025](#).

for January 13, 2026. The grounds for the Receiver's recommendation for approval of the Mortgage Adjudication Protocol are set out in the Fourth Report.

19. The Title Insurers sought an adjournment to the motion on the basis that they were not previously made aware of the claims made by the Objecting Mortgagors and/or that all defendants to the allegations made by the Objecting Mortgagors (i.e., the Interested Parties) must be on notice of the motion to approve the Mortgage Adjudication Protocol.¹⁶
20. Contrary to the Title Insurers' position, the Receiver submitted claims to the Title Insurers in respect of each of the Impugned Mortgages more than a year prior to the hearing and the Title Insurers were fully aware of the claims.¹⁷
21. Nonetheless, the Receiver agreed to the adjournment. During this time, the Receiver revised the terms of the Mortgage Adjudication Protocol to address the Title Insurers' concern regarding documentary disclosure. Specifically, the Receiver agreed to provide all relevant and non-privileged materials in its possession within 15 days of the delivery of the Mortgagor Materials.¹⁸

(iii) Second adjournment of Receiver's motion to approve its protocol

22. On January 30, 2026, the Receiver served the revised Mortgage Adjudication Protocol to the Service List, which includes all of the Interested Parties that the Receiver was able to contact pursuant to the 20 notice packages it delivered. None of the Objecting Mortgagors

¹⁶ Supplemental Report, at section 2.1, paras 2-6, MR, Tab 3, p. 71.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

or the Interested Parties opposed the Mortgage Adjudication Protocol on its proposed terms (one Interested Party, Seun Olowolafe, expressed jurisdictional objections).¹⁹

23. Leading up to the February 2nd hearing, the Title Insurers raised a second “threshold issue”: the identity of the “insured” under the policies. The Receiver agreed to a further adjournment of the motion for the approval of the Mortgage Adjudication Protocol to resolve this second threshold issue, which was scheduled to be heard on March 13, 2026.²⁰
24. Prior to the March 13, 2026, hearing, the Receiver and the Title Insurers engaged to attempt to resolve the second threshold issue. Pursuant to the FCT policies, there can be more than one “insured”. The Receiver and the Title Insurers agreed that the Receiver was an “insured” and the second threshold issue did not need to be argued. Accordingly, the March 13, 2026, hearing date was vacated.²¹
25. The Receiver subsequently engaged with the Title Insurers in an effort to agree to terms of the protocol on a consensual basis. These efforts included providing comprehensive summaries of the litigation concerning the entire Mortgage Portfolio and all relevant documents in the Receiver’s possession concerning the Impugned Mortgages. The Receiver’s extensive efforts to accommodate the concerns and requests of the Title Insurers are detailed in the Supplemental Report.
26. In addition, the Receiver incorporated many changes to its protocol based on the concerns expressed by the Title Insurers, including (i) replacing approval motion adjudication (as

¹⁹ Supplemental Report, at section 2.2, para 1, MR, Tab 3, p. 71.

²⁰ Supplemental Report, at section 2.2, para 3, MR, Tab 3, p. 71.

²¹ Supplemental Report, at section 2.2, para 4, MR, Tab 3, p. 72.

used for the Jank Mortgage) with a summary trial; (ii) requiring affidavits of documents (and, for the Receiver, a Disclosure Report); (iii) accepting the Title Insurers' preferred mediator; and (iv) affording the Title Insurers the opportunity to set out the Debtor's legal position through the Notice of Claim. The Receiver again invited the Title Insurers to revise the Mortgage Adjudication Protocol, which they refused to do.²² Instead, they insisted on the Insurer Protocol, resulting in an impasse and the necessity of this motion.

C. The Mortgage Adjudication Protocol

27. The Mortgage Adjudication Protocol establishes a single, Receiver-administered and court-supervised process for determining the Impugned Mortgages. Each party is required, at the outset, to set out its case in full, supported by affidavit evidence and comprehensive documentary disclosure.²³ With the evidentiary record established, the parties proceed to mandatory mediation on a fully informed basis, promoting meaningful settlement discussions. Any Impugned Mortgage not resolved at mediation proceeds to summary trial, with a pre-trial case conference to establish the procedure for the hearing.
28. Coverage decisions under the applicable title insurance policy are therefore not made in a vacuum. If an Impugned Mortgage is resolved at trial, any resulting coverage dispute will be determined on the basis of the trial record. If it is resolved earlier, the coverage decision will still be made on the basis of the comprehensive affidavit and documentary record assembled in advance of mediation. Should the Receiver and the relevant title insurer

²² Appendix "J" to the Supplemental Report, MR, Tab 3, p. 158.

²³ Appendix "M" (proposed Mortgage Adjudication Protocol) to the Supplemental Report, MR, Tab 3. See Section D (Procedure) requiring, among other things, a Notice of Claim by the Receiver, production of all relevant documents by the Receiver and the Receiver's Disclosure Report; affidavit evidence and accompanying affidavit of documents by the Objecting Mortgagors; and responding affidavit evidence from the Interested Parties.

disagree on coverage, that dispute will proceed to adjudication in substantially the same manner as the approval motion used for the Jank Mortgage.²⁴

29. Procedural steps that incur time and/or cost without meaningfully furthering the adjudication process are excluded from the Mortgage Adjudication Protocol.

PART III - STATEMENT OF ISSUES

30. The sole issue before this Court is whether to approve the Receiver's recommended Mortgage Adjudication Protocol or grant FCT's cross-motion seeking approval of the Insurer Protocol.
31. The Mortgage Adjudication Protocol should be approved.

PART IV - LAW & APPLICATION

A. Legal Framework

(i) Remedial objectives of Canadian insolvency law

32. The Supreme Court has held that the remedial purposes of Canadian insolvency law are: (i) the timely, efficient, and impartial resolution of a debtor's insolvency; (ii) the preservation and maximization of the debtor's assets; (iii) the fair and equitable treatment of claims against debtor; (iv) the protection of the public interest; and (v) the balancing of the costs and benefits of restructuring or liquidation.²⁵ To the extent possible, the CCAA and BIA are to be read harmoniously with those objectives in mind.²⁶

²⁴ Appendix "M" (proposed Mortgage Adjudication Protocol) to the Supplemental Report, MR, Tab 3. See Section G (Determination of Title Insurance Claims) which is modelled on the approval motion for the Jank Mortgage with a much broader evidentiary record available to the parties and Court.

²⁵ [9354-9186 Québec inc. v. Callidus Capital Corp., 2020 SCC 10](#) at para 40.

²⁶ [Urbancorp Cumberland I GP Inc. \(Re\), 2020 ONSC 7920](#) at paras 23-25; and [Re Hudson's Bay Company, 2025 ONSC 5998](#) at para 42.

33. The Supreme Court has also recognized the single proceeding model as a core feature of Canada’s insolvency regime under both statutes.²⁷ The single proceeding model places all stakeholders on equal footing and “avoids the inefficiency and chaos” that would result from fragmented, individual proceedings involving the debtor.²⁸
34. In the context of BIA receiverships, the primary purpose of a receiver is to preserve and realize upon a debtor’s assets in an efficient and orderly manner for the benefit of all stakeholders.²⁹ The Supreme Court has expressly recognized that efficiency and cost-effectiveness are “core objects” of BIA receiverships.³⁰ Insolvency proceedings can promote such cost efficiencies by, among other things, “avoid[ing] contractual disputes consuming inordinate time and money”.³¹

(ii) *The Receiver’s fiduciary duties to stakeholders*

35. The Receiver is not a stakeholder of the Debtor’s estate. It is an officer of the Court, “whose sole authority is derived from ... its Court appointment and the directions given by the Court”.³² In that role, the Receiver owes fiduciary duties to all stakeholders and must exercise its mandate to maximize recoveries in strict accordance with those fiduciary duties. It does not act for any creditor or constituency. It must act independently, neutrally, and in an even-handed manner. As described in *Toronto-Dominion Bank v. Usarco Ltd.*:

A receiver appointed by the court must act fairly and honestly as a fiduciary on behalf of all parties with an interest in the debtor’s

²⁷ [Century Services Inc. v. Canada \(Attorney General\)](#), 2010 SCC 60 at para 22.

²⁸ *Ibid.*

²⁹ [Duca v. 2203824 Ontario Inc.](#), 2020 ONSC 3119 at para 59; and [Third Eye Capital Corporation v. Ressources Dianor Inc./Dianor Resources Inc.](#), 2019 ONCA 508 [“*Third Eye Capital*”] at para 73.

³⁰ [Peace River](#) at paras 176-178.

³¹ [Edward Collins Contracting Limited \(Re\)](#), 2024 NLSC 84 at para 84. This was described in the context of CCAA claims procedures on principles which have equal application to BIA receiverships.

³² [Peace River](#) at para 57.

property and undertaking. **The receiver is not the agent of the debtor or the creditor or of any other party**, but has the duty of care, supervision and control which a reasonable person would exercise in the circumstances. The receiver may be liable for failure to exercise an appropriate standard of care.³³ [*emphasis added*]

36. The Receiver's fiduciary duties entail that it acts in good faith and with candour, placing all material facts before the Court and avoiding actual or perceived conflicts of interest.³⁴

(iii) *Claims Procedures established under section 243(1) of the BIA*

37. The Receiver was appointed under section 243 of the BIA, which confers a broad supervisory jurisdiction on this Court to make orders responsive to the exigencies of the receivership.³⁵ That jurisdiction includes the authority to establish claims procedures.³⁶

38. Claims procedures are at the discretion of the Court and must be crafted to fit the case before it.³⁷ The overriding concern of the court is to ensure that any claims procedure process is both fair and reasonable, and advance the remedial objectives of the Canadian insolvency regime.³⁸ The following principles articulated by the Court are particularly salient to the approval of a claims procedure within an insolvency proceeding:

- (a) It is appropriate in all cases for parties "to make efforts to increase efficiency, affordability, and certainty"³⁹ when establishing a claims procedure.

³³ *Usarco* at para 29, quoting *PanAmericana de Bienes y Servicios v. Northern Badger Oil & Gas Limited*, 1991 ABCA 18

³⁴ *YBM Magnex International Inc. (Re)*, 2000 CanLII 28169 (AB KB) at para 32 quoting *Canada Trustco Mortgage Co. v. York-Trillium Development Group Ltd.* (1992), 12 C.B.R.(3d) 220 (Ont. Gen. Div.).

³⁵ *Peace River* at para 148; and *Third Eye Capital* at para 72.

³⁶ *KEB Hana as Trustee v. Mizrahi Commercial (THE ONE) LP et al.*, 2024 ONSC 1678 ["**KEB**"] at paras 30-32.

³⁷ *Arrangement relatif à Asbestos Corporation Limited*, 2026 QCCS 7 at para 9; and *KEB* at paras 30-32.

³⁸ *Re TOYS "R" US (CANADA) LTD.*, 2018 ONSC 609 at para 14.

³⁹ *Ibid.*

- (b) In a receivership, parties expect “adjudicative pragmatism”⁴⁰ and a “claims process must serve the best interests of the commercial parties, including that it is **generally the intention of the parties to limit the number, length and costs of hearings** and appeals, and to recognize the expertise of those who engage in the claims process **and that in a receivership, resources are finite**”.⁴¹ [*emphasis added*]
- (c) If applicable, a claims procedure should account for the vulnerability of claimants, including advanced age, poor health, faded memories, and the risk of re-traumatization, and incorporate measures to mitigate the impact of recounting their experiences.⁴²
- (d) Public confidence in the insolvency regime is predicated on whether the process is fair, just, and accessible.⁴³
39. Accordingly, full trial procedures are the exceptions, not the norm, for insolvency claims procedures.⁴⁴ This remains true even in complex mass tort cases where the determination of claims turns on the credibility and reliability of the claimant’s evidence.
40. For example, in *Roman Catholic Episcopal Corporation of St. John’s (Re)*, elderly claimants advanced unsecured and contingent tort claims for physical and sexual abuse, requiring proof of both liability and quantum on an individualized basis. Although four “representative” claims established claims at trial, the remaining claimants had not

⁴⁰ [Pacer Construction Holdings Corporation v Pacer Promec Energy Corporation](#), 2018 ABCA 113 at para 93.

⁴¹ *Ibid* at para 105.

⁴² [Roman Catholic Episcopal Corporation of St. John’s \(Re\)](#), 2023 NLSC 5 [“*RCECSJ*”] Rat para 24.

⁴³ [Steels Industrial Products Ltd. \(Re\)](#), 2012 BCSC 1501 at para 38 quoting [Winalta Inc. \(Re\)](#), 2011 ABQB 399.

⁴⁴ [Walter Energy Canada Holdings, Inc. \(Re\)](#), 2017 BCSC 709 at para 23.

established liability.⁴⁵ The Court nonetheless approved a summary CCAA claims process. Each claimant submitted a proof of claim with limited supporting materials, on which a Claims Officer determined liability and damages, subject to court oversight. No expert evidence was required.⁴⁶ The claims were adjudicated on a summary basis notwithstanding that each claimant remained required to prove both liability and damages.

(iv) Recent policy imperatives regarding the Impugned Mortgages

41. Recently, the Honourable Justice Koehnen released a decision granting a “rare and exceptional” order directing that the defendants in a separate proceeding involving similar mortgage fraud allegations pay advance costs. In doing so, Justice Koehnen held that the swift adjudication of such mortgage frauds is an important policy imperative:

In recent years, a variety of forms of abusive mortgages and mortgage fraud have unfortunately become commonplace. **It is important as a matter of policy to get these cases to a resolution on the merits quickly** so that the courts can set out clear policies on the principles applicable to such cases both in order to act as a deterrent to bad actors and as a guide to the parties and courts to enable the speedier resolution of such cases.⁴⁷ [*emphasis added*]

42. Accordingly, any protocol for adjudicating the Impugned Mortgages must give effect to this Court’s stated policy imperative that such claims be resolved swiftly on their merits.

⁴⁵ [RCECSJ](#) at para 61. While the representative claims in that case served as a template of liability, each claimant still needed to prove liability and quantum of damages.

⁴⁶ *Ibid* at para 82.

⁴⁷ [Kamra](#) at para 16.

B. The Mortgage Adjudication Protocol should be Approved

43. The Mortgage Adjudication Protocol is responsive to the principles governing the approval of claims procedures within insolvency proceedings, as well as the policy imperative requiring the Impugned Mortgages to be swiftly adjudicated on the merits. In particular:

- (a) **Cost-effectiveness and procedural efficiencies:** The Mortgage Adjudication Protocol is streamlined and focused. Formal litigation steps have been replaced, where appropriate, with more efficient steps in the process that balance procedural fairness with cost and resource concerns. This reflects the urgent need for resolution given the advanced age of the Objecting Mortgagors.
- (b) **Proportionality:** The value of the Impugned Mortgages is a key factor in the overall framework for their adjudication. It would be entirely disproportionate and prejudicial to all stakeholders, but perhaps the Title Insurers (who would benefit if adjudication were abandoned due to mounting costs), if the Receiver would be required to separately litigate all eight of the Impugned Mortgages. In addition, some of the Objecting Mortgagors have self-described as impecunious⁴⁸ and cannot afford the significant costs expected with litigating each Impugned Mortgage in the ordinary course.
- (c) **Certainty:** Certainty is achieved by ensuring that all allegations of fraud are eligible to be adjudicated on the merits. This is particularly important in the case of the estate of Cindy Hunter-Parkhill (the “**Parkhill Estate**”), which is subject to

⁴⁸ Fourth Report at section 2.1, para 4, MR, Tab 2, p. 31.

default judgment⁴⁹ in an action commenced in Computershare's name without Computershare's authorization or knowledge. The Receiver believes that it is more efficient, cost-effective and fair to the Parkhill Estate to allow its case to be decided on the merits without requiring further procedural steps outside the receivership.

- (d) **Adjudication of Coverage Disputes:** The Mortgage Adjudication Protocol provides for the adjudication of coverage disputes. The Receiver is under a duty to maximize recoveries for the Debtor's estate, and to this end, it is logical to have coverage disputes adjudicated shortly after a given Impugned Mortgage is either settled or decided at summary trial.
- (e) **Single Proceeding:** The Mortgage Adjudication Protocol sets out a process with specific deadlines and obligations on each participant, administered by the Receiver. Rather than leaving the litigation up to the parties, which can be subject to indeterminate delay, the Mortgage Adjudication Protocol allows the Receiver to expediently shepherd the adjudication of all eight of the Impugned Mortgages.
- (f) **Procedural Robustness:** The current iteration of the Mortgage Adjudication Protocol reflects the extensive consultations the Receiver had with the Title Insurers and incorporates many of their comments. As a result, the process contemplated by the Mortgage Adjudication Protocol exceeds what this Court has already approved in respect of the Jank Mortgage, and what other courts have approved in similar cases of elderly persons who allege wrongdoing on the part of a debtor.⁵⁰

⁴⁹ Appendix "C" to the Second Supplement to the Fourth Report of the Receiver dated April 10, 2026 (the "**Second Supplement**"), reply record of the Receiver dated April 10, 2026 (the "**Reply Record**"), Tab 1, p. 39.

⁵⁰ For example, the Mortgage Adjudication Protocol contains more procedural steps than the process in [RCECSJ](#).

- (g) **Public Confidence:** The public's confidence in the Mortgage Adjudication Protocol is reflected in that, aside from FCT, all of the Debtor's disparate stakeholders either support it (i.e., Objecting Mortgagors and Equitable Bank) or do not oppose its terms (i.e., the Debtor and Interested Parties).

C. The Insurer Protocol should not be Approved

44. The Insurer Protocol is fundamentally flawed and incompatible with the legal principles governing the approval of claims procedures, as well as the specific policy imperatives issued by this Court in respect of cases like the Impugned Mortgages. These issues include, without limitation:

- (a) **Multiplicity of Proceedings:** The Insurer Protocol contemplates the transfer and resumption of the pre-receivership litigation concerning the Impugned Mortgages, with the accommodation that it can amend the pleadings on record. It does not provide for any administrative role for the Receiver enabling the process to move forward. This is in direct contravention of the single proceeding model for insolvency proceedings in Canada and invites inevitable delay and expense.
- (b) **Disproportionate and Protracted Process:** The Insurer Protocol contemplates several steps that are unnecessary and costly, including:
 - (i) Extensive Documentary Discovery: The Insurer Protocol contemplates ordinary course documentary discovery, including, among other things, the requirement to agree to a discovery plan. The Insurer Protocol does not provide for any dispute resolution mechanisms in respect of these

obligations. As such, discovery disagreements will be left for the Court to decide, further increasing costs and delay.

- (ii) Pleading Amendments: Rather than enabling the participants a fresh slate to comprehensively set out their positions, the Insurer Protocol calls for the amendment of pleadings, which requires consent of all parties or leave of the Court. The delivery of amended pleadings is unnecessary and would result in delay. The Insurer Protocol contemplates the delivery of supplemental affidavits of documents following the amended pleadings, as one example of the delay that would result.
- (iii) Transfer Orders and Orders to Continue: The Impugned Mortgages are subject to the receivership, and all related proceedings have been stayed. These orders are unnecessary.
- (c) **Insufficient Certainty**: The Insurer Protocol merely transfers the existing proceedings to the Commercial List rather than providing for an efficient and robust adjudication process, as is done in the Mortgage Adjudication Protocol. As discussed above, one example of uncertainty is that the Parkhill Estate would be required to first bring a motion setting aside default judgment in respect of a claim that Computershare did not authorize nor supports. This issue can be resolved within the Mortgage Adjudication Protocol.
- (d) **Insurer Protocol Leaves Coverage Disputes Uncertain**: The Insurer Protocol is silent on coverage disputes. In its materials, FCT states only that it is open to

discussing a timetable with the Receiver at some future point.⁵¹ The Receiver has spent over three months negotiating a complete adjudicative framework with the Title Insurers, addressing their threshold issues, producing all relevant documents in its possession, and revising the Mortgage Adjudication Protocol to accommodate FCT's concerns. Meanwhile, FCT has not advanced any framework for resolving coverage issues. Any protocol approved by the Court must address coverage; otherwise, the Receiver will have to commence up to eight claims against the Title Insurers or return to Court for approval of a coverage-specific protocol. The Debtor's stakeholders have an interest in the efficient adjudication of coverage disputes, including both Equitable Bank, as the senior secured creditor, and the Debtor itself, whose rights under the policies are being exercised by the Receiver.

(e) **Indifference to the age and needs of the Objecting Mortgagors:** The Insurer Protocol will needlessly subject the Objecting Mortgagors to a lengthier, costlier and more gruelling litigation process than the Mortgage Adjudication Protocol.

45. It is evident that the Insurer Protocol only benefits FCT at the expense of the Debtor's other stakeholders who have a recognized and pressing need for the efficient, cost-effective and complete resolution of all issues pertaining to the Impugned Mortgages.

D. FCT's Objections to the Mortgage Adjudication Protocol Lack Merit

46. FCT advances several overlapping criticisms of the Mortgage Adjudication Protocol which fall into two categories: jurisdictional and technical. Each lacks merit.

⁵¹ Affidavit of John Tracy Sworn April 7, 2026 (the "Tracy Affidavit") at para 41, Cross-Motion Record of FCT dated April 7, 2026 (the "CMR"), Tab 2, p. 40.

(i) *The Court has the jurisdiction to limit FCT's control of the Receiver*

47. FCT argues that the Mortgage Adjudication Protocol impermissibly amends its policies in two main respects. First, it argues the requirement to waive its reservation of rights on coverage limits its contractual right to control the defence, which it submits the Court has no jurisdiction to limit.⁵² Second, it claims that making the steps taken by FCT in the Receiver's stead subject to the Receiver's fiduciary duties likewise alters its contractual rights in a manner beyond the Court's jurisdiction.⁵³ Both of these objections incorrectly overstate FCT's rights under the policies as absolute and are contrary to binding precedent.
48. In respect of the waiver in the Mortgage Adjudication Protocol, it is settled law that an insurer's right to control the defence is curtailed where a "reasonable apprehension of conflict" exists between insurer and insured. In such circumstances, the insured is entitled to assume carriage of the defence and retain independent counsel at the insurer's expense. A well-established instance of such a conflict arises where the insurer reserves its rights to deny coverage based on the insured's alleged complicity in the underlying loss. As the Court held in *Hoang*:

An insurer may be required to relinquish control of the defence and pay for independent counsel retained by its insured only if there is "in the circumstances of the particular case, a reasonable apprehension of conflict of interest on the part of counsel appointed by the insurer

....

...The potential for conflict between the interests of an insurer and its insured invariably exists because of the insurer's separate obligations to defend and to indemnify. **That potential for conflict is exacerbated when the insurer insists on a reservation of rights**

⁵² Notice of cross-motion dated April 7, 2026 (the "**Notice of Cross-Motion**") at para 19, CMR, Tab 1, p. 23; and Tracy Affidavit at paras 23, 29-31, CMR, Tab 2, pp. 35-37.

⁵³ *Ibid.*

or when its insured signs a non-waiver agreement, putting in question coverage under the policy.

....

Here, that reasonable apprehension is readily apparent.... appearances count. The test is not actual conflict of interest, but a reasonable apprehension of a conflict of interest.⁵⁴

49. More recently, these principles were expanded in *Nazal*. The Court held that where a reasonable apprehension of conflict arises between an insurer and its insured, the insurer cannot control the defence and must instead appoint and fund independent counsel of the insured's choosing. This requirement flows from principles of fairness and the duty of good faith, as insurer-appointed counsel cannot ethically serve competing interests where coverage considerations may influence the defence.⁵⁵
50. The Court emphasized that this remedy does not expand coverage but rather gives effect to the insurer's existing duty to defend in a manner that is meaningful and free from "divided loyalties", consistent with the parties' reasonable expectations. Requiring independent counsel in such circumstances safeguards ethical obligations, preserves the integrity of the defence, and promotes procedural fairness and access to justice.⁵⁶
51. FCT has issued broad reservations of rights and non-waivers in respect of two Impugned Mortgages⁵⁷ and has engaged in investigation and interaction directly with mortgagors and their counsel in others.⁵⁸ In these instances FCT engaged Dentons to defend or investigate which creates a conflict. Further, Dentons was engaged by FCT to negotiate the subject

⁵⁴ [Hoang](#) at paras 14(2), 15 and 17.

⁵⁵ [Nazal](#) at para 75.

⁵⁶ *Ibid* at para 76.

⁵⁷ Appendices "A" and "B" to the Second Supplement, Reply Record, Tab 1.

⁵⁸ Appendix "K" to the Supplemental Report, MR, Tab 3, p. 217.

Protocol and opine on coverage or potential coverage issues. This creates a conflict of interest and disentitles FCT from controlling the litigation. The issue is even more critical in the context of a receivership. The Receiver is obligated to maximize recoveries for the estate, including by preserving and advancing claims under the title insurance policies, which form part of Equitable Bank's security. Permitting FCT to control the defence while reserving rights to deny coverage would risk shaping the litigation in a manner that undermines those recoveries. In these circumstances, the Court has jurisdiction to limit FCT's control and should approve the waiver in the Mortgage Adjudication Protocol, which simply reflects the protections afforded to insured persons at law. The Mortgage Adjudication Protocol is otherwise minimally prejudicial to FCT's substantive rights under the policies. It preserves FCT's rights as they relate to defending title, investigating allegations and recovery.

52. Moreover, the Receiver is a court officer whose authority derives solely from its appointment by the Court. It owes fiduciary duties to all stakeholders and does not act for any one party. While the Receiver falls within the broad definition of "insured" under FCT's policies,⁵⁹ enabling it to efficiently advance the Debtor's rights thereunder, those contractual rights cannot override its fiduciary obligations. A central feature of Canadian insolvency law is that stakeholders must be able to rely on court officers, including receivers, to act objectively as the Court's representative. FCT's position that its control rights prevail over those duties undermines that role and confidence.

⁵⁹Article 1 of Appendix "E" to the Supplemental Report, MR, Tab 3, p. 123.

53. As with cases where a reasonable apprehension of conflict limits an insurer's control, this Court has jurisdiction to ensure that the Receiver's fiduciary duties prevail over FCT's asserted rights of control under the policies.
54. In addition, the Receiver's appointment under section 243(1) of the BIA provides the Court with further jurisdiction to prioritize the paramountcy of the Receiver's fiduciary duties. Section 243(1) of the BIA has been interpreted by the courts as conferring the Court with the "broadest possible mandate" to respond to the exigencies of a given proceeding.⁶⁰ The current exigencies require that the Court safeguard the integrity of the receivership and the Receiver's ability to maximize recoveries by approving the Mortgage Adjudication Protocol.

(ii) The Mortgage Adjudication Protocol is technically sound

55. Finally, FCT's two technical objections with the Mortgage Adjudication Protocol are misplaced and/or can be resolved with minor changes to its terms.
56. First, FCT states that the Mortgage Adjudication Protocol is insufficient to engage the duty to defend, particularly in light of the absence of a provision that allows for the amendment of pleadings.⁶¹ The title insurance policies do not require a formal pleading to trigger the Title Insurers' obligations under their policies. The policies require a "claim" or a potential claim against the insured be reported. To qualify as an "Objecting Mortgagor", such

⁶⁰ [Peace River](#) at para 148.

⁶¹ Tracy Affidavit at para 28, CMR, Tab 2, p. 36.

mortgagor must have alleged fraud, which triggers the Receiver's duty to report the claim, and the Title Insurers' rights and obligations under the policy are engaged.⁶²

57. FCT has already issued letters confirming that the duty to defend has been engaged in respect of some of the Impugned Mortgages. FCT has also exercised rights under Article 4 of the Policy without delivering a coverage position including the appointment of counsel to negotiate with counsel for the Mortgagor.⁶³
58. Second, FCT's objection to the language in the Mortgage Adjudication Protocol which grants the Receiver the sole discretion to determine which parties to an Impugned Mortgage receive documents and are brought into the protocol is misplaced. That provision was meant to reflect the practical reality that many of the defendants to the claims of the Objecting Mortgagors cannot be readily reached, as they are either defunct companies or individuals who have relocated. The "sole discretion" ensured that the process was not bogged down by the inability of the Receiver to deliver documents to individuals who have expressed no apparent interest in the matters and cannot be readily contacted or served.
59. FCT's allegations that the Receiver intends to "gatekeep"⁶⁴ documents is meritless; the Receiver has delivered all relevant documents in its possession to FCT. In addition, the Receiver has authorized FCT to obtain documents from the Objecting Mortgagors and Interested Parties.⁶⁵ Nonetheless, in order to comfort the Title Insurers, the Receiver has

⁶² Article 4 of Appendix "E" to the Supplemental Report, MR, Tab 3, p. 123.

⁶³ Article 1 of Appendix "E" to the Supplemental Report, MR, Tab 3, p. 123; and Appendix "K" to the Supplemental Report, MR, Tab 3, p. 217.

⁶⁴ Tracy Affidavit at para 35, CMR, Tab 2, p. 38.

⁶⁵ Appendix "L" to the Supplemental Report, MR, Tab 3, pp. 255-257.

revised the Protocol so that the Receiver is required to provide all documents to the Title Insurers while maintaining its discretion in respect of the other Interested Parties.

PART V - ORDER REQUESTED

60. The Receiver respectfully requests, and recommends, that this Court grant an Order approving the Mortgage Adjudication Protocol and dismiss FCT's cross-motion.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 14th day of April, 2026.



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Lawyers for the Court-appointed receiver of
EquityLine SPV Limited Partnership, KSV
Restructuring Inc.

SCHEDULE “A”

LIST OF AUTHORITIES

1. *9354-9186 Quebec Inc. v. Callidus Capital Corp.*, [2020 SCC 10](#).
2. *Arrangement relatif à Asbestos Corporation Limited*, [2026 QCCS 7](#).
3. *Century Services Inc. v. Canada (Attorney General)*, [2010 SCC 60](#).
4. *Duca v. 2203824 Ontario Inc.*, [2020 ONSC 3119](#).
5. *Edward Collins Contracting Limited (Re)*, [2024 NLSC 84](#).
6. *Equitable Bank v Equityline SPV Limited Partnership*, [Endorsement of Kimmel J. dated May 13, 2025](#), CV-24-00721560-00CL.
7. *Equitable Bank v Equityline SPV Limited Partnership*, [Endorsement of Kimmel J. dated November 26, 2025](#), CV-24-00721560-00CL.
8. *Gold v Kamra et al*, [Endorsement of Koehnen J. dated February 23, 2026](#), CV-23-00703334-0000.
9. *Hoang v. Vicentini*, [2015 ONCA 780](#).
10. *KEB Hana as Trustee v. Mizrahi Commercial (THE ONE) LP et al.*, [2024 ONSC 1678](#).
11. *Nazal v. Hiruy and Solomon*, [2026 ONSC 834](#).
12. *Pacer Construction Holdings Corporation v Pacer Promec Energy Corporation*, [2018 ABCA 113](#).
13. *Peace River Hydro Partners v. Petrowest Corp.*, [2022 SCC 41](#).
14. *Re Hudson’s Bay Company*, [2025 ONSC 5998](#).
15. *Re TOYS “R” US (CANADA) LTD.*, [2018 ONSC 609](#).
16. *Roman Catholic Episcopal Corporation of St. John’s (Re)*, [2023 NLSC 5](#).
17. *Steels Industrial Products Ltd. (Re)*, [2012 BCSC 1501](#).
18. *Third Eye Capital Corporation v. Ressources Dianor Inc./Dianor Resources Inc.*, [2019 ONCA 508](#).
19. *Toronto-Dominion Bank v. Usarco Ltd.*, [2001 CanLII 24004](#).
20. *Urbancorp Cumberland I GP Inc. (Re)*, [2020 ONSC 7920](#).

21. *Walter Energy Canada Holdings, Inc. (Re)*, [2017 BCSC 709](#).

22. *YBM Magnex International Inc. (Re)*, [2000 CanLII 28169 \(AB KB\)](#).

I certify that I am satisfied as to the authenticity of every authority.

Note: Under the Rules of Civil Procedure, an authority or other document or record that is published on a government website or otherwise by a government printer, in a scholarly journal or by a commercial publisher of research on the subject of the report is presumed to be authentic, absent evidence to the contrary (rule 4.06.1(2.2)).

Date April 14, 2026



Signature

SCHEDULE “B”

TEXT OF STATUTES, REGULATIONS & BY - LAWS

[Bankruptcy and Insolvency Act, RSC 1985, c B-3](#)

[Section 243](#)

Court may appoint receiver

243 (1) Subject to subsection (1.1), on application by a secured creditor, a court may appoint a receiver to do any or all of the following if it considers it to be just or convenient to do so:

- (a) take possession of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt;
- (b) exercise any control that the court considers advisable over that property and over the insolvent person’s or bankrupt’s business; or
- (c) take any other action that the court considers advisable.

Restriction on appointment of receiver

In the case of an insolvent person in respect of whose property a notice is to be sent under [subsection 244\(1\)](#), the court may not appoint a receiver under subsection (1) before the expiry of 10 days after the day on which the secured creditor sends the notice unless

- (a) the insolvent person consents to an earlier enforcement under [subsection 244\(2\)](#); or
- (b) the court considers it appropriate to appoint a receiver before then.

Definition of receiver

(2) Subject to subsections (3) and (4), in this Part, *receiver* means a person who

- (a) is appointed under subsection (1); or
- (b) is appointed to take or takes possession or control — of all or substantially all of the inventory, accounts receivable or other property of an insolvent person or bankrupt that was acquired for or used in relation to a business carried on by the insolvent person or bankrupt — under
 - (i) an agreement under which property becomes subject to a security (in this Part referred to as a “security agreement”), or
 - (ii) a court order made under another Act of Parliament, or an Act of a legislature of a province, that provides for or authorizes the appointment of a receiver or receiver-manager.

Definition of receiver

(3) For the purposes of [subsection 248\(2\)](#), the definition *receiver* in subsection (2) is to be read without reference to paragraph (a) or subparagraph (b)(ii).

Trustee to be appointed

(4) Only a trustee may be appointed under subsection (1) or under an agreement or order referred to in paragraph (2)(b).

Place of filing

(5) The application is to be filed in a court having jurisdiction in the judicial district of the locality of the debtor.

Orders respecting fees and disbursements

(6) If a receiver is appointed under subsection (1), the court may make any order respecting the payment of fees and disbursements of the receiver that it considers proper, including one that gives the receiver a charge, ranking ahead of any or all of the secured creditors, over all or part of the property of the insolvent person or bankrupt in respect of the receiver's claim for fees or disbursements, but the court may not make the order unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations.

Meaning of *disbursements*

(7) In subsection (6), *disbursements* does not include payments made in the operation of a business of the insolvent person or bankrupt.

EQUITABLE BANK
Applicant

and

EQUITYLINE SPV LIMITED PARTNERSHIP
Respondent
Court File No. CV-24-00721560-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at TORONTO

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