

**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.
(Tolling Order)**

May 14, 2026

THORNTON GROUT FINNIGAN LLP
100 Wellington Street West
Suite 3200, TD West Tower
Toronto ON M5K 1K7

Rebecca Kennedy (LSO# 61146S)
Tel: (416) 304-0603
Email: rkennedy@tgf.ca

Scott McGrath (LSO # 59346K)
Tel: (416) 304-1592
Email: smcgrath@tgf.ca

Derek Harland (LSO# 79504N)
Tel: (416) 304-1127
Email: dkharland@tgf.ca

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

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PART I - OVERVIEW

1. The Receiver brings this motion for an order tolling all limitation periods (the “**Tolling Order**”) with respect to the mortgage granted by Mr. Van Dijk in favour of the Debtor and the related litigation. The Debtor’s general partner, EquityLine SPV GP Inc. (the “**GP**”), has been named in a Third Party Claim in this litigation and, in order to protect the Debtor’s rights and interests, the GP needs to defend the Third Party Claim and cross claim against the other third parties. However, the Receiver currently lacks the authority to do so and there is a potential impending limitations period of May 23, 2026.
2. No party will be prejudiced by the requested tolling order. No steps have been taken in the proceedings and the proceedings are currently stayed as a result of the Receivership Order. Such an order would allow time for the GP’s involvement to be either consensually resolved amongst the parties or adjudicated a consensual resolution cannot be achieved.

PART II - SUMMARY OF FACTS

3. All capitalized terms used but not otherwise defined herein have the meaning given to them in the Fifth Report of the Receiver dated May 13, 2026 (the “**Fifth Report**”).

(a) **Mortgage Adjudication Protocol**

4. The Debtor is part of a group of companies and entities known as the “EquityLine Group”, which operated in the mortgage services sector as of the date of the Receivership Order.¹
5. Eight of the mortgages in the Debtor’s portfolio have allegations from the mortgagor of fraud (collectively, the “**Impugned Mortgages**”). The mortgagors generally assert that the

¹ Fifth Report, at para 1.2.

Impugned Mortgages were produced under false pretenses or, in some cases, by falsifying documents.²

6. Accordingly, the Receiver sought from the Court a protocol to adjudicate all claims in respect of the Impugned Mortgages.
7. On April 30, 2026, the Court granted the MAP Approval Order, which approved a protocol to adjudicate the Impugned Mortgages (the “**Mortgage Adjudication Protocol**”).³

(b) Van Dijk Mortgage

8. On May 12, 2022, a residential mortgage was registered in favour of Computershare as the previous custodian of the Debtor’s mortgages, against the property municipally known as 19 – 700 Paisley Road, Guelph, Ontario owned by Mr. Van Dijk in the principal amount of \$360,000 (the “**Van Dijk Mortgage**”).⁴
9. On September 21, 2023, a Statement of Claim (the “**SOC**”) was issued by the Debtor against Mr. Van Dijk to enforce the Van Dijk Mortgage beneficially held for the Debtor.⁵
10. On May 16, 2024, Mr. Van Dijk filed a Statement of Defence (the “**SOD**”) and Counterclaim (the “**Counterclaim**”).⁶
11. On May 24, 2024, Mr. Van Dijk issued a Third Party Claim (the “**Third Party Claim**”) against the following parties: 2852874 Ontario Inc., 2799953 Ontario Inc., Danielle

² Fifth Report, at para 1.3.

³ Fifth Report, at para 1.3.

⁴ Fifth Report, at para 2.2.

⁵ Fifth Report, at para 2.4.

⁶ Fifth Report, at para 2.5.

Harrison, Austin Acheson, Aid Almusri, Mortgage Maven Inc., Equityline SVP GP Inc. and Canada's Choice Capital.⁷

12. The Third Party Claim names Equityline SVP GP Inc.; however, this is likely meant to name Equityline SPV GP Inc. the GP.⁸
13. The Receivership Order was granted prior to any Statement of Defence being filed with respect to the Counterclaim or any Third Party Claims. The Receivership Order has stayed the proceedings against the Property, the Debtor and the Receiver.⁹
14. Pursuant to the MAP Order, the Van Dijk SOC was continued from Computershare to KSV, in its capacity as the Receiver of the Debtor. The Mortgage Adjudication Protocol and the MAP Order apply to the Van Dijk Mortgage and related litigation.¹⁰
15. The limitations period commenced on the date that the GP was served with the Third Party Claim.¹¹
16. It is unknown if or when the Third Party Claim was served on the GP. The Third Party Claim was issued on May 24, 2024, meaning the earliest expiry of the limitations period for the GP to file cross claims against third parties would be May 23, 2026.¹²
17. The Receivership Order did not toll any applicable limitations periods.¹³

⁷ Fifth Report, at para 2.6.

⁸ Fifth Report, at para 2.7.

⁹ Fifth Report, at para 2.8.

¹⁰ Fifth Report, at para 2.9.

¹¹ Fifth Report, at para 3.1.

¹² Fifth Report, at paras 2.6, 3.2.

¹³ Fifth Report, at para 3.3.

18. The Receiver needs to take steps to preserve and protect the rights of the Debtor with respect to the Van Dijk Mortgage and related litigation. This requires the Receiver to defend against the Counterclaim and to have the GP defend the Third Party Claim and commence a cross claim against the other third parties. As set out above, the SOC has been continued in the name of KSV, in its capacity as the Receiver of the Debtor. Therefore, the Receiver can take steps to defend against the Counterclaim. However, the Third Party Claim named the GP, and not the Debtor.¹⁴
19. While the Van Dijk Mortgage constitutes “Property” under the Receivership Order and is subject to same, the GP is not subject to the Receivership Order and KSV is not currently appointed over the GP. The Receiver cannot currently instruct counsel to defend the Counterclaim and commence cross claims on behalf of the GP.¹⁵
20. Counsel to the Debtor and the EquityLine Group is Friedmans LLP. The Receiver has been unable to confirm if Friedmans LLP remains retained by the EquityLine Group and the GP in particular. In addition, the only director of the GP is Sergiy Shchavyelyev, who has been unresponsive during all recent steps in these proceedings.¹⁶
21. The Receiver is considering whether it needs to expand the Receivership Order to include the GP, which would need to be on notice to the GP, its sole director and former counsel to the Debtor.¹⁷

¹⁴ Fifth Report, at para 3.4.

¹⁵ Fifth Report, at para 3.5.

¹⁶ Fifth Report, at para 3.6.

¹⁷ Fifth Report, at para 3.7.

PART III - STATEMENT OF ISSUES

22. The issues applicable to this motion are as follows:
- (i) whether the Court has the jurisdiction to grant the Tolling Order; and
 - (ii) whether the Court should grant the Tolling Order in the circumstances.
23. For the reasons set out below, the Tolling Order should be granted.

PART IV - LAW & APPLICATION

A. The Court has jurisdiction to grant the Tolling Order

24. 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.¹⁸ The current exigencies require that the Court safeguard the integrity of the receivership and the Receiver's ability to preserve and pursue potential claims relating to the Van Dijk Proceeding by approving the Tolling Order.
25. Tolling provisions are common in proceedings under the *Companies' Creditors Arrangement Act* ("CCAA") and have been approved by courts in a number of decisions.¹⁹ Courts have recognized the jurisdiction under section 11 of the CCAA to make broad tolling orders suspending the running of limitation periods relating to any proceeding for or against a debtor.²⁰ The jurisdiction to grant such relief flows from the Court's jurisdiction to grant a stay of proceedings on any terms that it may impose and is also

¹⁸ [Peace River Hydro Partners v. Petrowest Corp.](#), 2022 SCC 41 at para 148; and [Third Eye Capital Corporation v. Ressources Dianor Inc./Dianor Resources Inc.](#), 2019 ONCA 508 at para 72.

¹⁹ [Imperial Tobacco Canada Limited, Re](#), 2019 ONSC 2222 ["*Imperial Tobacco*"] at para 27.

²⁰ [Carillion Canada Holdings Inc. et al. \(Re\)](#), 2022 ONSC 66 at para 28; [Imperial Tobacco](#) at para 27.

supported by the Court's statutory or inherent jurisdiction to make any order it considers appropriate in the circumstances.

26. Chief Justice Morawetz held in *Bridging* that those principles extend to receivership proceedings and held that the Court has both statutory and inherent jurisdiction to grant tolling orders in receivership proceedings.²¹

27. Accordingly, this Court has the jurisdiction to grant the Tolling Order.

B. The Tolling Order should be Granted

28. The Tolling Order represents a commercially reasonable solution that will benefit all stakeholders. As Justice McEwen held in *Imperial Tobacco*, "this result is sensible and desirable".²² As such, the Receiver recommends that the proposed Tolling Order be granted.

29. In the present case, while the stay of proceedings granted in the Receivership Order stays actions against the Property, the Debtor and the Receiver, it does not toll limitation periods without an express order to do so. To preserve and protect the Property including the Van Dijk mortgage and related litigation, a Tolling Order is appropriate to prevent the expiry of any limitation periods before the issue of the GP can be resolved.

30. A Tolling Order will not prejudice any party as no steps have been taken in the proceedings and the proceedings are currently stayed pursuant to the Receivership Order.²³

²¹ [Ontario Securities Commission v. Bridging Finance Inc., 2023 ONSC 2140](#) at paras 15, 16, 21.

²² [Imperial Tobacco](#) at para 27.

²³ Fifth Report, at para 3.9.

31. The Receiver only recently became aware of the relevant limitations issue and the Tolling Order will provide the Receiver with the breathing room necessary to consider the best approach to have the GP bring the cross claims.
32. The interested parties will have the opportunity to reach a consensual resolution of the issue if the Tolling Order is granted.
33. The Tolling Order is just and convenient in the circumstances.

PART V - ORDER REQUESTED

34. The Receiver respectfully requests, and recommends, that this Court grant the Tolling Order.

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



Rebecca Kennedy/ Scott McGrath / Derek
Harland

THORNTON GROUT FINNIGAN LLP

100 Wellington Street West
Suite 3200, TD West Tower
Toronto ON M5K 1K7

Rebecca Kennedy (LSO# 61146S)

Tel: (416) 304-0603
Email: rkennedy@tgf.ca

Scott McGrath (LSO # 59346K)

Tel: (416) 304-1592
Email: smcgrath@tgf.ca

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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.

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100 Wellington Street West
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Rebecca Kennedy (LSO# 61146S)

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