



**Second Report to Court of  
KSV Restructuring Inc.  
as Receiver and Manager of  
Equityline SPV Limited Partnership**

May 5, 2025

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COURT FILE NUMBERS: CV-24-00721560-00CL

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

**B E T W E E N:**

**EQUITABLE BANK**

**APPLICANT**

**- AND -**

**EQUITYLINE SPV LIMITED PARTNERSHIP**

**RESPONDENTS**

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**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE  
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND  
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED**

**SECOND REPORT OF  
KSV RESTRUCTURING INC.  
AS RECEIVER AND MANAGER**

**MAY 5, 2025**

## **1.0 Introduction**

1. Pursuant to an order issued by the Ontario Superior Court of Justice (the “**Court**”) on August 8, 2024 (the “**Receivership Order**”), KSV Restructuring Inc. (“**KSV**”) was appointed as the receiver and manager (the “**Receiver**”), without security, of all assets, undertakings and properties of EquityLine SPV Limited Partnership (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the “**Property**”). A copy of the Receivership Order is attached as **Appendix “A”**.
2. The application to appoint the Receiver was brought by Equitable Bank (“**EQB**”), the Debtor’s senior secured creditor, which was owed approximately \$10.1 million as of the date of the Receivership Order.

3. The Debtor is part of a group of companies known as the “Equityline Group”, which operates in the mortgage services sector. As of the date of this second report (the “**Second Report**”), the Debtor currently holds a portfolio of 23 mortgages, with an estimated book value of \$10.9 million (the “**Mortgage Portfolio**”). The Mortgage Portfolio was managed by Equityline Service Corporation (“**Service Co.**”), which also managed mortgages for the Equityline Group’s publicly listed mortgage investment entity, EquityLine Mortgage Investment Corporation (the “**MIC**”).
4. To date, the Receiver has filed a first report (the “**First Report**”), detailing the structure of the Equityline Group’s operations, the nature of the Debtor’s indebtedness to EQB, and the status of the Mortgage Portfolio, and a supplement to the First Report (the “**Supplement to the First Report**”), detailing site visits to the mortgaged properties. Copies of the First Report and the Supplement to the First Report, each without appendices, are attached as **Appendix “B” and “C”, respectively**.
5. This Second Report is filed by KSV in its capacity as Receiver.

## 1.1 Purposes of this Report

1. The limited purpose of this Second Report is to oppose the motion brought by Margaret Jank, a borrower, to lift the stay of proceedings imposed by the Receivership Order, to permit her to bring a motion for partial summary judgment in her action against the Debtor, among other defendants (the “**Jank Action**”). A copy of the statement of claim in the Jank Action is attached as **Appendix “D”**.

## 1.2 Restrictions

1. In preparing this Report, the Receiver has relied upon: (i) discussions and information provided by representatives of EQB; (ii) certain of the Debtor’s unaudited books and records; (iii) information provided by the Debtor; and (iv) the receivership application materials filed by EQB and materials filed by the Debtor (collectively, the “**Information**”).
2. The Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that complies with Canadian Auditing Standards (“**CAS**”) pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance as contemplated under the CAS in respect of the Information. Any party wishing to place reliance on the Information should perform its own diligence and the Receiver accepts no responsibility for any reliance placed on the Information in this Report by any party.
3. Additional background information regarding the Debtors and the reasons for the appointment of the Receiver are provided in the affidavit of Brendan Smith, Director, Specialized Finance of EQB, sworn May 31, 2024 (the “**Smith Affidavit**”). Copies of the Court materials filed in these proceedings are available on the Receiver’s case website at: <https://www.ksvadvisory.com/experience/case/equityline>.

## 2.0 The Allegedly Fraudulent Mortgages

### 2.1 The Receiver's Investigative Powers

1. The Receiver's mandate is to realize on the Debtor's assets, which includes enforcing the mortgages in the Mortgage Portfolio that are in default. All the remaining mortgages are presently in default.
2. At least eight mortgages (including the Jank Mortgage described below) have been identified as being potentially invalid or unenforceable as a result of fraud. The details of each alleged fraud are not identical, but they share some similarities. In general, they tend to involve elderly, incapacitated or otherwise vulnerable mortgagors (such as those with language barriers) who were allegedly convinced to enter contracts for various forms of home improvement loans/financing.
3. To date, the Receiver has not sought to enforce any mortgage subject to an allegation of fraud. Rather, the Receiver has sought to conduct a reasonable and proportionate investigation into the allegations of fraud.
4. To that end, on October 17, 2024, the Receiver brought a motion for an order, among other things, authorizing the Receiver to exercise investigative powers.
5. On October 17, 2024, the Honourable Justice Kimmel granted the order authorizing the Receiver to exercise investigative powers (the "**Investigative Powers Order**"). A copy of the Investigative Powers Order and endorsement are attached as **Appendix "E"**.

### 2.2 The Receiver Has Been Seeking to Examine the Relevant Parties

1. As part of its investigations, and pursuant to the Investigative Powers Order, the Receiver has sought to convene examinations of each of Sergiy Shchavyelyev (the principal of the Debtor and other entities within the Equityline Group), Terry Walman (the lawyer for the Debtor who acted in relation to the mortgages), Mary Moncada and Mark Simone (each a senior employee of the Debtor at the relevant time). The purpose of the examinations is to obtain information relevant to the Receiver's determination of whether certain mortgages within the Mortgage Portfolio may have been registered fraudulently or are otherwise unenforceable.
2. To date, Mr. Shchavyelyev and Mr. Walman have retained counsel to represent them at the proposed examinations. Mr. Walman has not provided his availability to attend at the examinations pending his counsel's review of relevant documents. The Receiver has not yet been able to make contact with Ms. Moncada and Mr. Simone to schedule their examinations. Its efforts in that regard are ongoing.
3. The Receiver's investigations are ongoing. As a result, the Receiver is not yet able to determine whether each of the eight allegedly fraudulent mortgages is valid or enforceable.

## 3.0 The Jank Action

### 3.1 Overview of the Jank Action

1. On July 19, 2024, Ms. Jank commenced the Jank Action against Computershare Trust Company of Canada, which holds the legal title to the mortgage loans on behalf of the Debtor, the Debtor, Services Co, the MIC, certain other entities related to the Debtor, Mr. Shchavyelyev, Mr. Walman, and certain other individuals, corporations and law firms.
2. Ms. Jank alleges that the mortgage registered on title to her home at 132 Swift Crescent, Guelph (the “**Jank Property**”) in favour of the Debtor (the “**Jank Mortgage**”) in the principal amount of \$335,000 was registered fraudulently. She states that she never applied for a mortgage from the Debtor nor signed any of the documents authorizing the registration of the charge. Rather, a number of parties, including mortgage brokers and lenders, fraudulently arranged the mortgage on her behalf and took the proceeds. She alleges that the Debtor, controlled by Mr. Shchavyelyev, participated in or was wilfully blind to the fraud. The allegations in the Jank Action are broadly consistent with the allegations of fraud relating to the other seven allegedly fraudulent mortgages.
3. The Jank Action was stayed upon the issuance of the Receivership Application.
4. Ms. Jank seeks to lift the stay of proceedings to permit her to bring a motion for partial summary judgment, seeking an order to discharge the Jank Mortgage.

### 3.2 The Receiver’s Position in Response to the Lift Stay Motion

1. The Receiver opposes Ms. Jank’s motion.
2. As described above, the Receiver’s mandate is to, among other things, enforce the mortgages within the Mortgage Portfolio. This mandate necessarily includes a determination and possibly an adjudication of whether each of the mortgages is valid and enforceable.
3. The purpose of a stay of proceedings in a receivership order is to protect the insolvent party’s assets, to permit the receiver to take control and manage those assets effectively, and to create a single forum within which all matters relating to the receivership estate are to be adjudicated.
4. It would defeat the purpose of the stay of proceedings and the single proceeding model, if individual mortgagors were permitted to continue or commence court actions seeking individual determinations relating to assets within the receivership estate. In addition to diverting the Receiver’s attention from the administration of the receivership estate, such an approach risks inconsistent findings and is far more costly.

5. Furthermore, the Receiver continues to review the Mortgage Portfolio for the purpose of, among other things, coming to a view as to the validity and enforceability of the allegedly fraudulent mortgages. It would be counter-productive for the Receiver to simultaneously be required to defend a litigation process outside of the receivership, that is aimed at the very same goals.
6. Furthermore, lifting the stay of proceedings would set an inappropriate precedent. On one hand, it may encourage the mortgagors of other allegedly fraudulent mortgages to seek leave to commence court proceedings seeking the discharge of the allegedly fraudulent mortgages, to which the Receiver will be required to respond. On the other hand, it may give such mortgagors the impression that they **must** commence court actions to seek the discharge of such mortgages. To the contrary, the Receiver intends to address each of these mortgages in an orderly and consistent manner within the receivership.
7. Ms. Jank is not making any payments towards the Jank Mortgage, nor has she at least since the date of the Receivership Order. Although it is in default, the Receiver has not taken and does not intend to take any steps to enforce the Jank Mortgage while it investigates Ms. Jank's fraud allegations.
8. There is no pending sale of the Jank Property which requires the imminent discharge of the Jank Mortgage such that Ms. Jank has not suffered any prejudice by the receivership.

### **3.3 The Receiver's Proposed Process**

1. Ms. Jank's primary goal in seeking to lift the stay is to obtain a Court determination that the Jank Mortgage should be discharged from title to the Jank Property. She proposes to do this by bringing a motion for partial summary judgment against the Debtor.
2. In the Receiver's view, this purpose can be achieved more quickly and cost-effectively within the context of the receivership. To that end, the Receiver proposes the following process for the adjudication of the Jank Mortgage:
  - a) Immediately following the hearing of the lift-stay motion, the Receiver will write to Mr. Shchavyelyev and Mr. Walman, seeking their position in opposition to Ms. Jank's request to discharge the Jank Mortgage. Mr. Shchavyelyev and Mr. Walman will have 30 days to provide their responses.
  - b) In the meantime, the Receiver will continue its review of the Debtor's books and records relating to the Jank Mortgage, together with the documents that have been provided by Ms. Jank through her counsel, in a reasonable and proportionate manner.

- c) 60 days following the hearing of the lift-stay motion, the Receiver shall issue its determination of whether or not the Jank Mortgage is valid and enforceable (subject to the right to extend the 60-day period, if required, on notice to Ms. Jank, for a maximum of an additional 30 days).
  - i. If the Receiver determines that the Jank Mortgage is invalid and unenforceable, the Receiver's determination in this regard shall be binding upon all parties. The Receiver shall arrange to discharge the Jank Mortgage.
  - ii. If the Receiver determines that the Jank Mortgage is valid and enforceable, Ms. Jank shall have the right to appeal that determination to this Court on motion, which appeal shall be heard as an appeal *de novo* (i.e. Ms. Jank shall be entitled to file evidence in support of her position).
- 3. The foregoing process will result in a determination as to the validity and enforceability of the Jank Mortgage in a cost-effective manner and timely manner. If necessary, Ms. Jank will have the right to file evidence seeking a determination that the Jank Mortgage is invalid and must be discharged. This is the same right she would have on a motion for partial summary judgment, with the advantage that the appeal will be heard on the Commercial List in the context of this receivership proceeding.
- 4. The Receiver is continuing to investigate the remaining allegedly fraudulent mortgages and is in discussions with the Debtor's insurers who provided title insurance as to their rights of subrogation should a claim by the Receiver be accepted. Depending on the results of those investigations and the Receiver's dealings with the insurers, the Receiver may return to the Court to seek a further process for the determination and/or adjudication of the validity of any such mortgages.
- 5. In addition, the Receiver intends to return to the Court in the coming weeks to report on its ongoing activities and to address other matters relating to the administration of the receivership. As indicated at paragraph 1.1 above, the limited purpose of this Second Report is to respond to Ms. Jank's motion.

## 4.0 Conclusion

- 1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court:
  - a) dismiss Ms. Jank's lift stay motion; and
  - b) endorse the process set out at paragraph 3.3 above, related to the adjudication of the validity and enforceability of the Jank Mortgage.



\* \* \*

All of which is respectfully submitted,

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.,  
SOLELY IN ITS CAPACITY AS RECEIVER AND MANAGER OF  
EQUITYLINE SPV LIMITED PARTNERSHIP  
AND NOT IN ITS PERSONAL CAPACITY**

## **Appendix “A”**

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

THE HONOURABLE	)	TUESDAY, THE 30th
	)	
JUSTICE JANA STEELE	)	DAY OF JULY, 2024

**EQUITABLE BANK**

Applicant

- and -

**EQUITYLINE SPV LIMITED PARTNERSHIP**

Respondent

**ORDER**  
**(appointing Receiver)**

THIS MOTION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing KSV Restructuring Inc. as receiver and manager ("**KSV**" and in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of EquityLine SPV Limited Partnership (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, was heard before the Honourable Justice Jana Steele on July 29, 2024 at 330 University Avenue, Toronto, Ontario.

AND WHEREAS on reading the Affidavit of Brendan Smith sworn May 31, 2024 and the Exhibits thereto, the Affidavit of Jackson Chau sworn July 25, 2024 and the Exhibit thereto, the Affidavit of Stephen Murphy sworn July 25, 2024 and the Exhibits thereto, the Affidavit of Sergiy Shchavyelyev sworn July 16, 2024 and the Exhibits thereto, and on hearing the

submissions of counsel for the Applicant and the Respondent, no one else appearing although duly served as appears from the affidavits of service filed, and on reading the consent of KSV to act as the Receiver, the Honourable Justice Jana Steele issued an endorsement released July 30, 2024 providing that KSV be appointed as receiver (the “**Endorsement**”),

AND WHEREAS the Applicant and the Respondent have approved the form of Order, which is being signed by the Honourable Justice Kimmel to give effect to the Endorsement,

### **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

### **APPOINTMENT**

2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, KSV Restructuring Inc. is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including but not limited to all mortgages held in the name of the Debtor or held in the name of Computershare Trust Company of Canada (“**Computershare**”), as custodian for the Debtor, together with all proceeds thereof (the “**Property**”).

### **RECEIVER’S POWERS**

3. THIS COURT ORDERS that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized, but not obligated, to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;

- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter

instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

- (i) without the approval of this Court in respect of any transaction not exceeding \$1,000,000, provided that the aggregate consideration for all such transactions does not exceed \$5,000,000, all before applicable taxes; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

4. THIS COURT ORDERS that all right, title and interest in the Property held by Computershare pursuant to a custodial agreement dated August 5, 2021 between Computershare and the Debtor (the “**Custodial Agreement**”), and pursuant to a title custodian acknowledgment agreement with Equitable Bank, the Debtor and Computershare dated August 5, 2021 (the “**Title Custodian Acknowledgement Agreement**”) be and are hereby transferred and assigned to the Receiver and Computershare is hereby released from any obligations under the Custodial Agreement and Title Custodian Acknowledgement Agreement without prejudice to Computershare’s right and ability to continue to rely on those clauses of the Custodial Agreement and Title Custodian Acknowledgement Agreement that survive resignation or termination including without limitation, Section 8.11 of the Title Custodian Agreement.

## **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

5. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

6. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure. Without limiting the generality of the foregoing, such Records includes those in the hands of EquityLine Services Corp.

7. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this



paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

8. THIS COURT ORDERS that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days notice to such landlord and any such secured creditors.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

9. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

10. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property, including without limitation any and all Proceedings brought in the name of Computershare in respect of the Property ("**Computershare Proceedings**") shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings, including without limitation the Computershare Proceedings and any counterclaims asserted in the Computershare Proceedings, currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

### **NO EXERCISE OF RIGHTS OR REMEDIES**

11. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH THE RECEIVER**

12. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

### **CONTINUATION OF SERVICES**

13. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

## **RECEIVER TO HOLD FUNDS**

14. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

## **EMPLOYEES**

15. THIS COURT ORDERS that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## **PIPEDA**

16. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all

material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

17. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

### **LIMITATION ON THE RECEIVER'S LIABILITY**

18. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

### **RECEIVER'S ACCOUNTS**

19. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless

otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

20. THIS COURT ORDERS that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

21. THIS COURT ORDERS that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

22. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$700,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

23. THIS COURT ORDERS that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

24. THIS COURT ORDERS that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.

25. THIS COURT ORDERS that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### **SERVICE AND NOTICE**

26. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '<<https://www.ksvadvisory.com/experience/case/equityline>>'.

27. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business

day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## **GENERAL**

28. THIS COURT ORDERS that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

29. THIS COURT ORDERS that the Receiver may retain solicitors to represent and advise the Receiver in connection with the exercise of the Receiver's powers and duties, including without limitation, those conferred by this Order. Such solicitors may include Aird & Berlis LLP, solicitors for the Applicant herein, in respect of any matter where there is no conflict of interest. The Receiver shall, however, retain independent solicitors in respect of any legal advice or services where a conflict exists or may arise.

30. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

31. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

32. THIS COURT ORDERS that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

33. THIS COURT ORDERS that the Applicant shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

34. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

35. THIS COURT ORDERS that this Order and all of its provisions are effective as of the date of this order without any need for entry and filing.



Digitally signed by  
Jessica Kimmel  
Date: 2024.08.08  
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## SCHEDULE "A"

### RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that KSV Restructuring Inc., the receiver and manager (the "**Receiver**") of the assets, undertakings and properties EquityLine SPV Limited Partnership acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "Court") dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Order") made in an action having Court file number \_\_-CL-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$\_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the \_\_\_\_\_ day of each month] after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

KSV Restructuring Inc., solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

Per: \_\_\_\_\_

Name:

Title:

Applicant

Respondent

Court File No. CV-24-00721560-00CL

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**Proceedings commenced at TORONTO**

**ORDER**  
(Appointing Receiver)

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*Lawyers for Equitable Bank*

## **Appendix “B”**



**First Report to Court of  
KSV Restructuring Inc.  
as Receiver and Manager of  
EquityLine SPV Limited Partnership**

October 2, 2024

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COURT FILE NUMBERS: CV-24-00721560-00CL

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

**B E T W E E N:**

**EQUITABLE BANK**

**APPLICANT**

**- AND -**

**EQUITYLINE SPV LIMITED PARTNERSHIP**

**RESPONDENTS**

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**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE  
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND  
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED**

**FIRST REPORT OF  
KSV RESTRUCTURING INC.  
AS RECEIVER AND MANAGER**

**OCTOBER 2, 2024**

## **1.0 Introduction**

1. Pursuant to an order issued by the Ontario Superior Court of Justice (the “**Court**”) on August 8, 2024 (the “**Receivership Order**”), KSV Restructuring Inc. (“**KSV**”) was appointed as the receiver and manager (the “**Receiver**”), without security, of all assets, undertakings and properties of EquityLine SPV Limited Partnership (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the “**Property**”). A copy of the Receivership Order is provided in Appendix “A”.
2. The application to appoint the Receiver was brought by Equitable Bank (“**EQB**”), the Debtor’s senior secured creditor, which was owed approximately \$10.1 million as of the date of the Receivership Order.



3. The Debtor is part of a group of companies known as the “EquityLine Group”, which operates in the mortgage services sector. The Debtor currently holds a portfolio of approximately 25 mortgages, with an estimated book value of \$11.8 million (the “**Mortgage Portfolio**”). The Mortgage Portfolio is managed by EquityLine Services Corporation (“**Services Co.**”), which also manages mortgages for the EquityLine Group’s publicly listed mortgage investment entity, EquityLine Mortgage Investment Corporation (the “**MIC**”).
4. Since its appointment, the Receiver has identified several critical issues concerning the Debtor, including, but not limited to the following:
  - a) all mortgages are in default of their payment schedules;
  - b) at least eight of the Debtor’s mortgagors have alleged fraud, raising serious questions regarding the validity of their mortgages. The Receiver is aware of three mortgagors that have formally filed claims against Computershare Trust Company of Canada (“**CTCC**”), which holds the legal title to the mortgage loans on behalf of the Debtor;
  - c) the Debtor’s principal has disclosed the unauthorized diversion of \$1.6 million in mortgage repayments from the Debtor to the MIC prior to the date of the Receivership Order, which amount is subject to EQB’s security interest. The MIC has not returned these funds to the Debtor, despite repeated demands by the Receiver; and
  - d) three mortgages, with principal amounts totalling approximately \$1 million, that were subject to EQB’s security interest, were postponed or transferred without the required consent of EQB (the “**Postponed Mortgages**”).
5. This report (the “**Report**”) is filed by KSV in its capacity as Receiver.

## 1.1 Purposes of this Report

1. The purposes of this Report are to:
  - a) provide background information about the Debtor and EquityLine Group;
  - b) summarize the Receiver’s activities since the Receivership Order was granted;
  - c) summarize the Receiver’s review of the Mortgage Portfolio;
  - d) recommend that this Court issue an Amended and Restated Receivership Order and provide the basis for:
    - i. appointing KSV as receiver over Services Co. and the MIC;
    - ii. authorizing the Receiver to exercise investigative powers, including to examine under oath any Person (as defined in the Receivership Order); and
    - iii. approving this Report and the Receiver’s activities described therein.

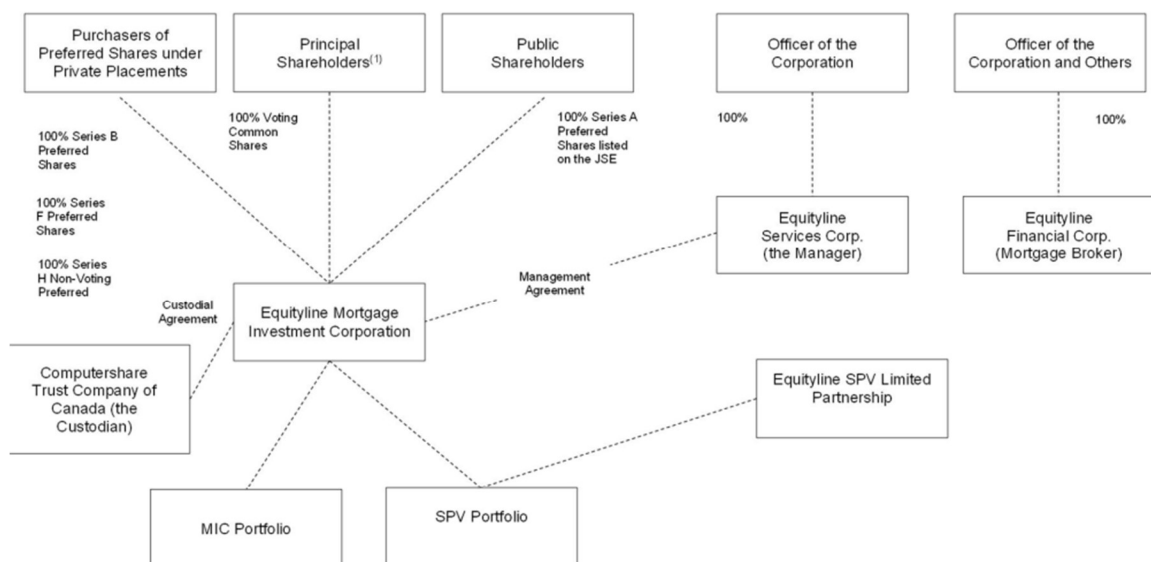
## 1.2 Restrictions

1. In preparing this Report, the Receiver has relied upon: (i) discussions and information provided by representatives of EQB; (ii) certain of the Debtor's unaudited books and records; (iii) information provided by the Debtor; and (iv) the receivership application materials filed by EQB and materials filed by the Debtor (collectively, the "**Information**").
2. The Receiver has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that complies with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants of Canada Handbook and, accordingly, the Receiver expresses no opinion or other form of assurance as contemplated under the CAS in respect of the Information. Any party wishing to place reliance on the Information should perform its own diligence and the Receiver accepts no responsibility for any reliance placed on the Information in this Report by any party.
3. Additional background information regarding the Debtors and the reasons for the appointment of the Receiver are provided in the affidavit of Brendan Smith, Director, Specialized Finance of EQB, sworn May 31, 2024 (the "**Smith Affidavit**"). Copies of the Court materials filed in these proceedings are available on the Receiver's case website at: <https://www.ksvadvisory.com/experience/case/equityline>.

## 2.0 Background

### 2.1 Structure

1. EquityLine Group brokers, finances and manages its mortgages. An organizational chart for EquityLine Group is provided below.<sup>1</sup>



<sup>1</sup> Sourced from the MIC's Offering Memorandum dated September 23, 2023.

2. The principal entities within EquityLine Group and their respective functions are outlined below.
  - a) EquityLine Financial Corp. (the “**Mortgage Broker**”): entity that offers mortgage brokering services, mortgage lending and private mortgage loan administration services.
  - b) Services Co.: entity responsible for managing mortgages and overseeing day-to-day mortgage administration activities, including the sourcing, structuring, and ongoing management of the mortgage portfolio.
  - c) MIC: a publicly listed entity on the Jamaican Stock Exchange, the MIC is a non-bank lender primarily providing residential real estate loans in Ontario, with a smaller portion of its portfolio dedicated to commercial real estate loans.
  - d) Debtor: as more fully set out below, the Debtor is a special purpose vehicle which currently holds a portfolio of 25 mortgages in Ontario with a book value of \$11.8 million.
3. Sergiy Shchavyelyev (“**Shchavyelyev**”) serves as the sole director of the Debtor and is also the President and Director of EquityLine Group’s affiliate entities, including the MIC, Services Co. and the Mortgage Broker.

## 2.2 Debtor

1. The Debtor is a limited partnership formed pursuant to the laws of Ontario declared on June 23, 2021. The MIC is the sole limited partner of the Debtor. EquityLine SPV GP Inc. is the general partner of the Debtor.
2. The Debtor does not have any employees. Its mortgages are administered by Services Co.
3. Under a Mortgage Sale and Servicing Agreement, the Mortgage Broker transfers the rights, title, and interest in specific mortgages to the Debtor. The Debtor finances a portion of these mortgages using funds borrowed from EQB. Services Co. manages the Mortgage Portfolio, interacting with individual mortgagors, collecting payments, and reporting on the status of the mortgages. Pursuant to the Credit Agreement (as defined below), EQB funded up to 80% of first mortgages and 50% of second mortgages, with the remaining balance financed by the MIC.

4. A summary of the principal amount of the mortgages is provided below. Three of the mortgages in the Mortgage Portfolio are Postponed Mortgages.

(unaudited; \$000s)	# of Mortgages	Principal value	Funded by EQB	Funded by MIC
First Mortgage	16	9,087	7,140	1,947
Second Mortgage	9	2,718	1,359	1,359
Mortgage Portfolio <sup>2</sup>	<b>25</b>	<b>11,805</b>	<b>8,499</b>	<b>3,306</b>
Discharged Mortgages	5	2,044	1,575	469
Total Portfolio, including discharged/postponed	<b>30</b>	<b>13,849</b>	<b>10,074</b>	<b>3,775</b>

5. As outlined in the Smith Affidavit, prior to the commencement of receivership proceedings, EQB became aware that a substantial majority of the Mortgage Portfolio was in default. Additionally, EQB discovered that at least eight of the mortgages, which were believed to be held as collateral, had been discharged, postponed or transferred without the loan proceeds being applied or without the knowledge or authorization of either EQB or CTCC. A copy of the Smith Affidavit is attached as Appendix “B”.

## 2.3 EQB

1. As of the date of the Receivership Order, approximately \$10.1 million was outstanding to EQB.
2. Pursuant to the terms of a credit agreement dated August 5, 2021, as amended (the “**Credit Agreement**”), EQB provided a revolving credit facility (the “**Credit Facility**”) with advances up to an aggregate principal amount of \$25 million.
3. As security for the Credit Facility, EQB obtained the following from the Debtor: (i) a general security agreement dated August 5, 2021 (the “**GSA**”); and (ii) a custodial agreement with CTCC dated August 5, 2021 (the “**Custodial Agreement**”), and a title custodian acknowledgement agreement with EQB and CTCC dated August 5, 2021 (the “**Title Custodian Acknowledgement Agreement**”). Under the terms of the Custodial Agreement and the Title Custodian Acknowledgment Agreement, CTCC holds legal title and acts as agent, nominee and bailee for and on behalf of the Debtor in respect of its mortgages, while the Debtor retains beneficial ownership of those mortgages.
4. The Debtor’s obligations to EQB pursuant to the Credit Agreement are guaranteed by Services Co. through an unlimited guarantee agreement dated August 5, 2021.
5. On August 27, 2024, EQB filed a financing statement pursuant to the *Personal Property Security Act* (Ontario) (the “**PPSA**”) against the MIC in respect of the \$1.6 million in mortgage repayments that were to have been deposited with the Debtor.

<sup>2</sup> Included within the Mortgage Portfolio are three mortgages that have been postponed or transferred without the required consent of EQB. The total principal balance of these mortgages is approximately \$1.5 million, with \$1 million funded by EQB and \$500,000 funded by the MIC.

6. On September 10, 2024, EQB filed a financing statement pursuant to the PPSA against Services Co. in respect of the proceeds of mortgages (including regular payments) inappropriately retained by Services Co.
7. Counsel for the Receiver has not yet conducted a security review of EQB's security.

## 3.0 Mortgage Portfolio

### 3.1 Introduction

1. Immediately following the commencement of the receivership proceedings on August 8, 2024, the Receiver requested a meeting with Shchavyelyev. Shchavyelyev indicated that the earliest he could meet was on August 14, 2024, six days after the commencement of the receivership proceedings.
2. On August 14, 2024, two representatives of the Receiver met with Shchavyelyev and a board member of the MIC.

### 3.2 Status of Mortgage Portfolio

#### 3.2.1 Prior to Receivership

1. Prior to the receivership, EQB received monthly reports from the Debtor suggesting that several mortgages were in varying stages of arrears, specifically between 30 to 90 days. EQB understood that payments were continuing and that none of these mortgages had been classified as defaulted or were subject to enforcement proceedings.
2. Contrary to these reports, the majority of the mortgages were, in fact, in default. The Debtor and Services Co. appear to have provided misleading information to EQB regarding both the financial status of the Debtor and EQB's collateral.
3. The Receiver understands that Services Co. engaged Terry Walman ("**Walman**") as its counsel and initiated lawsuits to recover on some of the mortgages in the name of CTCC. CTCC has advised the Receiver that Services Co. did not inform CTCC of these actions nor did it or Walman obtain CTCC's consent, resulting in unauthorized legal proceedings being initiated.

#### 3.2.2 Review of Mortgage Portfolio

1. During the August 14, 2024 meeting with Shchavyelyev, the Receiver reviewed the status of the Mortgage Portfolio, which is comprised of 25 mortgages.
2. Shchavyelyev advised the Receiver that 24 of the remaining 25 mortgages in the Mortgage Portfolio are in varying stages of default. The Receiver notes that the default rate in the MIC industry is approximately 1%<sup>3</sup>.

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<sup>3</sup> Source: <https://www.reuters.com/world/americas/risk-mortgage-defaults-puts-spotlight-canadian-non-bank-lenders-2024-02-01>

3. Of the 25 mortgages, Shchavyelyev reported that four are subject to allegations of fraud made by the borrowers against, among others, CTCC. These claims assert that service and renovation contractors presented falsified agreements to elderly borrowers in an effort to register a Notice of Security Interest (NOSI) against their properties. Subsequently, these borrowers were contacted by the Debtor, which allegedly settled the purported security interests in exchange for high-yield mortgage loans.
4. For example, in the case of the second mortgage loan on the property located at 132 Swift Crescent, Guelph, the borrower was reportedly victimized by a door-to-door sales scam around December 2021. The borrower is alleging that it was misled into believing that certain falsified “liens” on their home would result in the property being sold unless funds were paid to join a non-existent class action lawsuit. Several visits from the alleged fraudsters allowed them to gather personal information from the borrower and complete a mortgage application without the borrower’s knowledge or consent. Following the deposit of the mortgage proceeds into the borrower’s account, the alleged fraudsters convinced the borrower that these funds were proceeds from the lawsuit, which were to be used for renovations. Ultimately, the borrower alleges that it was induced to pay the entirety of the mortgage funds to the alleged fraudsters in subsequent months.
5. A sample Statement of Claim, which is similar to two others, is attached as Appendix “C”.

### **3.2.3 Communication with Borrowers**

1. The Receiver sent letters to the 25 borrowers on August 19, 2024, by registered mail and on August 27, 2024, by courier notifying them of the receivership proceedings, and demanding the monthly mortgage payments be directed to the Receiver’s bank account.
2. The Receiver made further attempts to reach unresponsive borrowers through phone calls and emails. In total, the Receiver has communicated with 14 of the 25 borrowers. Of these, eight have alleged mortgage fraud — four more than previously identified by Shchavyelyev.
3. For the remaining 11 mortgages, the Receiver’s counsel sent letters to the unresponsive borrowers on September 18, 2024, by email and registered mail. To date, only one borrower has responded. The Receiver has engaged a contractor to attend at the residences of the unresponsive borrowers to attempt to contact them. If the Receiver is not able to contact the borrowers, it may commence enforcement actions.

4. The current status of the mortgages, all of which are in default, is provided in the table below.

(unaudited; \$000s) Mortgage Status	Number of Mortgages	Principal	Debt funded by EQB	Debt funded by the MIC
No alleged fraud	7	2,564	1,806	758
Alleged Fraud	8	4,015	2,969	1,046
Unresponsive	10	5,226	3,724	1,502
	25	11,805	8,499	3,306

5. The Receiver understands that 20 of the 25 mortgages have not been serviced in over a year. The other five mortgages have outstanding balances ranging from one to seven months.

### 3.3 Diverted Funds

#### 3.3.1 Pre-Receivership Title Searches and Findings

1. Prior to the receivership, EQB conducted title searches on properties where it held registered mortgages. These searches identified that at least eight mortgages had been discharged, postponed or transferred without the proceeds being applied to the loan, and without the authorization or knowledge of either EQB or CTCC. This resulted in approximately \$2.6 million of outstanding debt owed to EQB that is no longer secured by a property charge.
2. A summary of the eight affected mortgages is as follows:

(unaudited; \$000s)		
Property	Mortgage Amount	Nature of Instrument
33 Broadmead Ave.	100	CTCC discharged
128 Ducharme St.	337	CTCC discharged
2662 Meldrum Rd	288	CTCC discharged
9 Mowat Crescent	330	CTCC discharged
1563 Nipissing Court	520	CTCC discharged
<i>Subtotal</i>	1,575	
69 Fenwood Heights	170	Postponement
135 Ben Sinclair Ave	90	Partial transfer
22 Lord Roberts Dr	752	Transfer of Charge
<i>Subtotal</i>	1,012	
<b>Total</b>	<b>2,587</b>	

3. Each title search for the properties listed above is attached as Appendix "D". The table and underlying instruments reflect:
  - a) the first five mortgages, with an aggregate outstanding principal of \$1,574,880, were inappropriately discharged without the knowledge or consent of EQB or CTCC, and without the proceeds being paid to EQB;



- b) on August 8, 2023, a postponement in favor of Elle Mortgage Corporation (“**Elle**”) occurred regarding 69 Fenwood Heights, also without knowledge or consent from EQB or CTCC;
  - c) on October 19, 2023, a partial transfer (64%) of charge occurred from CTCC to Elle for 135 Ben Sinclair Avenue, again without knowledge or consent from EQB or CTCC; and
  - d) a full transfer of charge took place on March 19, 2024, from CTCC to EquityLine GP Inc. concerning 22 Lord Roberts Drive, unauthorized by EQB or CTCC;
4. On July 16, 2024, Shchavyelyev swore an affidavit (the “**Shchavyelyev Affidavit**”), in which the following was conceded:
- a) in paragraph 24, three mortgages held by the Debtor were discharged without EQB having been paid its interest in that mortgage (the “**Discharged Mortgages**”). The total amount due to EQB arising from the Discharged Mortgages was \$725,280; and
  - b) in paragraph 25, the misallocation of sale proceeds from the Discharged Mortgages was due to an alleged accounting error, resulting in funds for the Discharged Mortgages being transferred to the MIC, and that such alleged error has not been corrected and such funds have not been returned by MIC to the Debtor.
5. A copy of the Shchavyelyev Affidavit is attached as Appendix “E”.

### 3.3.2 Meeting Outcome

- 1. During the August 14, 2024 meeting with the Receiver, Shchavyelyev advised that five, rather than three, mortgages had been discharged by the Debtor without payment of proceeds to EQB, increasing the total to five Discharged Mortgages. The aggregate value of these mortgages was \$1,574,880, with the funds being transferred to the MIC.
- 2. The Receiver requested third-party verification of these transfers, such as bank statements, but has not yet received them. Shchavyelyev indicated that the funds would be returned to the Debtor by August 23, 2024.

### 3.3.3 Demand Upon MIC and Services Co.

- 1. On July 31, 2024, the Jamaica Observer published an article titled “Equityline winding up business as JSE suspends trading” (the MIC is listed on the JSE, being the Jamaica Stock Exchange). The article refers to the MIC “winding up its business and distributing assets to satisfy investor claims” and references that “the company’s auditors, Grant Thornton LLP in Canada, requested Equityline withdraw its auditors report”, without an explanation as to why the audit opinion was withdrawn. A copy of the article is provided as Appendix “F”.



2. The Receiver notes that the MIC's most recent unaudited financial statements posted on its website are for the period ended September 30, 2023. Accordingly, the current financial position of the MIC is unknown; however, since it co-invested in mortgages with the Debtor, and given the Debtor's mortgage default rate, the MIC's assets are impaired.
3. On August 16, 2024, the Receiver's counsel sent a letter to Shchavyelyev demanding repayment of the proceeds from the Discharged Mortgages by August 23, 2024 (the "**August 16<sup>th</sup> Letter**"). The letter also warned that the failure to return the funds would result in the Receiver taking all necessary steps to recover the property, including seeking relief against the MIC and potentially holding Shchavyelyev personally in contempt of the Receivership Order. A copy of the August 16<sup>th</sup> Letter is attached as Appendix "G".
4. The Receiver did not receive a response to the August 16<sup>th</sup> Letter. On August 20, 2024, Shchavyelyev emailed the Receiver, stating, "I'm still working on getting funds to repay. Judy is preparing the agreement to your lawyer side. The moment funds are in my account (estimated Friday), I will send it to Judy Friedman so she can transfer it to your lawyer against the release document. All in works takes a bit of time." A copy of this email is attached as Appendix "H".
5. The Receiver sought clarification regarding the necessity of a release for the return of the Debtor's property. Shchavyelyev later advised that he wanted assurance that no further motion would be brought against the MIC once the funds were repaid. The Receiver informed Shchavyelyev's counsel that it could not agree to such terms, as there may be other funds that had been diverted.
6. On August 22, 2024, the Receiver received a letter from the MIC's counsel, which also purported to be on behalf of the Debtor, despite the Debtor being under receivership. The letter stated that the funds would be repaid to the Receiver by August 30, 2024. It also requested that upon repayment, the Receiver confirm that all amounts owing by the MIC to the Receiver would be considered fully resolved. A copy of this letter is attached as Appendix "I".
7. On August 23, 2024, the Receiver's counsel sent a letter to Shchavyelyev's counsel stating that the Receiver would not accept any conditions for the return of these diverted funds. The letter emphasized that the Receiver was unsure if these were the only five mortgages involved and that the investigation into the circumstances of the diversion was ongoing. A copy of the Receiver's letter is attached as Appendix "J".
8. On September 6, 2024, EQB's counsel sent a letter to Shchavyelyev informing him that EQB had registered a financing change statement against the MIC under subsection 48(2)(b) of the PPSA to continue securing the proceeds from the unauthorized discharges. The letter also made a formal demand regarding the unauthorized Discharged Mortgages and included a Notice of Intention to Enforce Security ("**NITES**") pursuant to subsection 244(1) of the *Bankruptcy and Insolvency Act*. A copy of the letter, together with the NITES, is attached as Appendix "K".

9. On September 13, 2024, EQB's counsel sent to Services Co. a formal demand for the mortgage proceeds inappropriately retained by Services Co. and included a NITES. A copy of the letter, together with the NITES, is attached as Appendix "L".
10. Since then, Shchavyelyev has made several further commitments to repay the diverted funds but has not done so in full. On September 24, 2024, the Receiver received \$203,346 as partial repayment for a mortgage that had been repaid to Services Co. While the Receiver has been informed that other Services Co. mortgage repayments will be directed to repay the Debtor, no additional funds have been received.

### **3.3.4 Communication with Counsel**

1. The Receiver and its counsel have communicated with Walman, former counsel to the Debtor, with respect to enforcement of the mortgages that comprised the Mortgage Portfolio.
2. As outlined above, certain mortgages that comprise the Mortgage Portfolio have been subordinated, postponed and transferred on the title of the subject property prior to the receivership. Elle is the entity that holds mortgages on the properties where postponement or transfer has occurred prior to the receivership. The Receiver understands that Walman also acts as counsel to and may be the principal of Elle.
3. In addition, Walman continues to act for Services Co. with respect to the enforcement of mortgages that do not form part of the Mortgage Portfolio.
4. In each case, the unauthorized discharges, postponement and assignments referred to at paragraph 3.3.1 (3) were registered by Walman's law office with a clerk of his office signing the document on behalf of CTCC without the knowledge or approval of CTCC or EQB.

### **3.4 Additional Findings**

1. Three of the borrowers have advised the Receiver that Services Co. attempted to withdraw multiple monthly interest payments in the days prior to the receivership proceedings. Presently, the Receiver has obtained support that three months of accelerated interest, in the aggregate amount of \$19,016, was improperly withdrawn by Services Co. on August 8, 2024 (the date of the Receivership Order) from one of the borrowers.
2. The Receiver delivered a letter to Shchavyelyev and Services Co. by email on September 6, 2024, demanding the accounting records of amounts collected from mortgagors in the months prior to the receivership, along with a repayment of the collected funds. The Receiver made subsequent attempts to contact Shchavyelyev on September 9, 20, and 23, 2024. Shchavyelyev has not responded. This lack of communication is concerning, as the Receiver cannot ascertain whether additional funds have been improperly diverted.

### 3.5 Recommendation

1. Given the above, the Receiver has significant concerns about the Debtor, the MIC and Services Co. Shchavyelyev is the sole director of each of these entities and has ceased responding to the Receiver.
2. The Receiver recommends the Court issue an amended receivership order for the following reasons:
  - a) **Recovery of Diverted Funds:** Significant funds, amounting to \$2,586,880, have been improperly diverted from the Debtor without the knowledge or consent of EQB or CTCC. The Receiver has identified multiple instances of unauthorized discharges and transfers concerning mortgages that compromise the Debtor's stakeholders, including the security interests held by EQB. By appointing the Receiver over the MIC and Services Co., the Court would enable a focused investigation and recovery effort for these diverted funds, ensuring that the creditors can claim amounts owed according to their entitlements.
  - b) **Transparent Investigation:** The Receiver's authority would allow for comprehensive and impartial investigations into the transactions and decisions made by both the MIC and Services Co. This includes obtaining necessary documentation and conducting due diligence to trace diverted funds. Given the complexities of these financial transactions, an independent Court officer is best positioned to ensure that all relevant information is disclosed, enhancing the overall transparency of the recovery process.
  - c) **Preservation of Assets:** The Receiver is equipped to safeguard the MIC's assets, which has disclosed that it is winding-up, and maximize the value of the Mortgage Portfolio. This is crucial given the substantial outstanding debt, the likely significant impairment of the MIC's mortgage portfolio and the potential for further prejudice to the MIC's stakeholders.
  - d) **Mitigation of Fraud Risks:** The ongoing financial irregularities and fraud allegations significantly elevate the risk of further loss to creditors and other stakeholders. By appointing the Receiver, the Court can help mitigate these risks, safeguarding the assets of the MIC and Services Co. and facilitating the recovery of funds that rightfully belong to the creditors. The Receiver's oversight would serve to deter any additional unauthorized actions by management.
  - e) **Objective Management:** The Receiver offers impartial and objective management of the MIC, distinct from the previous management's apparent conflicts of interest and miscommunication with stakeholders, including EQB and CTCC.
  - f) **Oversight of Services Co.:** Services Co. collects payment on behalf of the mortgage loans. Shchavyelyev has been unresponsive regarding the collection of additional payments. The Receiver can provide oversight to understand if additional funds were diverted.

- g) **Preservation of Creditor Rights:** The appointment of the Receiver is in alignment with the best interests of all stakeholders, particularly the creditors. The Receiver's role would focus on maximizing recoveries from the MIC and Services Co., ensuring that the rights of creditors are considered throughout the receivership process. This aligns with the overarching goal of preserving the value of the assets and ensuring equitable treatment among all creditors. In the current circumstances, the Receiver does not know if the MIC will repay the diverted funds.

## 4.0 Receipts and Disbursements

1. The Receiver has collected two payments in the aggregate of \$211,737 since the commencement of these proceedings, as follows:
  - a) \$8,392 received on September 19, 2024 - interest payment on one mortgage loan. Several months of interest arrears are still owing on this mortgage.
  - b) \$203,346 received on September 24, 2024 – Funds received from Walman as a partial repayment of the mortgage loan on the property located at 2662 Meldrum Road, Windsor. These funds are attributable to a portion of the \$1,574,880 of the Discharged Mortgages.
2. The Receiver has not made any disbursements since the commencement of the proceedings.

## 5.0 Receiver's Activities

1. The Receiver's activities since the commencement of these proceedings include:
  - a) corresponding extensively with EQB, Aird & Berlis LLP ("**A&B**"), and Thornton Grout Finnigan LLP ("**TGF**"), the Receiver's counsel, regarding all aspects of these receivership proceedings;
  - b) corresponding with the Debtor to obtain the Information regarding the Mortgage Portfolio;
  - c) attending a meeting at the Debtor's head office on August 14, 2024;
  - d) reviewing mortgage documents and reports provided by the Debtor;
  - e) corresponding with A&B and EQB to perform title searches on the Mortgage Portfolio, and consulting CTCC regarding the same;
  - f) corresponding with Shchavyelyev to demand repayment of the \$1.6 million diverted to the MIC, and corresponding extensively with EQB, A&B, and TGF regarding the same;

- g) corresponding with Shchavyelyev to demand the accounting records of amounts collected from the Services Co. in the months prior to the receivership;
- h) corresponding with the mortgage borrowers on August 19 and 27, 2024 to notify them of the receivership proceedings and the requirement to pay the monthly mortgage service to the Receiver;
- i) convening phone calls with borrowers to understand the mortgage status, and arrange for repayment of interest and mortgage principal;
- j) maintaining a mortgage schedule to track mortgage status and cumulative interest outstanding;
- k) reviewing counterclaims of borrowers who claim alleged fraud;
- l) preparing this Report and reviewing and commenting on the motion materials in respect of same;
- m) engaging a contractor to attend at the residences of unresponsive borrowers;
- n) responding to emails and calls from borrowers;
- o) preparing the notice and statement of receiver pursuant to sections 245 and 246 of the *Bankruptcy and Insolvency Act*; and
- p) maintaining the Receiver's case website.

## 6.0 Conclusion

1. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make an order granting the relief detailed in Section 1.1(1)(d) of this Report.

\* \* \*

All of which is respectfully submitted,

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.,  
SOLELY IN ITS CAPACITY AS RECEIVER OF  
EQUITYLINE SPV LIMITED PARTNERSHIP  
AND NOT IN ITS PERSONAL CAPACITY**

## **Appendix “C”**



**Supplement to the  
First Report to Court of  
KSV Restructuring Inc.  
as Receiver and Manager of  
EquityLine SPV Limited Partnership**

October 11, 2024

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## Appendices

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COURT FILE NUMBERS: CV-24-00721560-00CL

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

**B E T W E E N:**

**EQUITABLE BANK**

**APPLICANT**

**- AND -**

**EQUITYLINE SPV LIMITED PARTNERSHIP**

**RESPONDENTS**

---

**IN THE MATTER OF AN APPLICATION UNDER SUBSECTION 243(1) OF THE  
BANKRUPTCY AND INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND  
SECTION 101 OF THE COURTS OF JUSTICE ACT, R.S.O. 1990, C. C.43, AS AMENDED**

**SUPPLEMENT TO FIRST REPORT OF  
KSV RESTRUCTURING INC.  
AS RECEIVER AND MANAGER**

**OCTOBER 11, 2024**

## **1.0 Introduction**

1. This report (the “**Supplemental Report**”) supplements the First Report to the Court dated October 2, 2024.
2. Unless otherwise stated, capitalized terms in this Supplemental Report and not otherwise defined herein have the meanings given to them in the First Report.

### **1.1 Purposes of this Report**

1. The purposes of this Supplemental Report are to:
  - a) provide the Court with an update on the site visits conducted by the Receiver’s agent to the properties associated with the borrowers who have not responded to the Receiver’s communications;

- b) update the Court on mortgage repayments; and
- c) summarize correspondence sent to the Receiver from an investor in the MIC.

## 1.2 Restrictions

1. This Supplemental Report is subject to the restrictions in Section 1.2 of the First Report.

## 1.3 Currency

1. All currency references in this Supplemental Report are in Canadian dollars.

## 2.0 Site Visits

1. The Receiver engaged Richmond Advisory Services Inc. (“**RAS**”) to inspect the properties of the unresponsive borrowers and advise them of the receivership.
2. The inspections were performed on October 3 and October 4, 2024. The properties inspected are as follows:

(unaudited; \$000s) Property	Position	Principal	Debt funded by EQB	Debt funded by the MIC
69 Fenwood Heights	Second	340	170	170
33 Fieldside Drive	Second	366	183	183
12 Harewood Ave	First	920	736	184
135 Ben Sinclair Ave	Second	180	90	90
18 Furness Crescent	Second	358	179	179
1096 William Street	First	1,000	800	200
1096 William Street	Second	280	140	140
15 Hooper Street	First	550	440	110
216 Bay Street	First	592	474	118
475 Catherine Street	First	640	512	128
		5,226	3,724	1,502

3. RAS’s findings from the inspections are summarized below:
  - a) **69 Fenwood Heights** – The property is vacant. A notice by Apex Property Management (“**Apex**”), a property management firm, was posted on the front door, on behalf of the first mortgagee. Information about the first mortgagee was not disclosed to RAS.
  - b) **33 Fieldside Drive** – The property is in good condition and occupied by tenants. The tenants did not provide any further information to RAS.
  - c) **12 Harewood Ave** – The property is vacant. A notice was posted by Apex. Apex did not disclose who contracted it.
  - d) **135 Ben Sinclair Ave** – The property is vacant. A notice was posted by Apex. Apex did not disclose who contracted it.

- e) **18 Furness Crescent** – The property is in good condition and occupied by the borrower. RAS delivered a notice to the individual occupying the property. The Receiver has not received any communication from the borrower.
  - f) **1096 William Street** – The property is in excellent condition and occupied by tenants. The tenants refused to accept a notice from RAS.
  - g) **15 Hooper Street** – The property is vacant. A notice was posted by Apex. Apex informed RAS that it was contracted by the Debtor. The exterior of the property appeared to be undergoing renovations and was unfinished.
  - h) **216 Bay Street** – The property is in very poor condition and is occupied by squatters. Evidence of drug use was apparent. The electricity had been cut off and a generator was provided by the City of Ottawa.
  - i) **475 Catherine Street** – The property is in very poor condition and boarded up. A notice was posted by Apex. Apex informed RAS that it was contracted by the Debtor. The property has suffered from two fires and is not liveable.
4. Of the three properties that are tenanted, the legal counsel for the borrower of 1096 William Street advised the Receiver that the borrower intends to make ongoing monthly mortgage payments. The borrowers on the other two properties remain unresponsive.
5. An updated status of the properties is provided in the table below.

(unaudited; \$000s) Property Status	Number of Properties	Principal	Debt funded by EQB	Debt funded by the MIC
Attended by Apex	5	2,630	1,948	682
Occupied by Squatters	1	592	474	118
Tenanted, Responsive	1	1,280	940	340
Tenanted, Unresponsive	2	724	362	362
	9	5,226	3,724	1,502

6. On October 3, 2024, the Receiver sent an email to Shchavyelyev to inquire about whether a blanket mortgage insurance policy was in place as the Receiver is concerned that the vacant and derelict properties are uninsured by the borrowers. A follow-up email was sent on October 7, 2024, requesting information on whether any third parties have been contracted to secure any of the mortgaged properties. A copy of the email is attached as Appendix "A". Shchavyelyev has not responded to the Receiver.

### 3.0 Repayments

1. As of the date of the First Report, the Receiver had collected approximately \$203,000 as a partial mortgage repayment, attributable to a portion of the \$1.6 million of Discharged Mortgages.

2. Since the First Report, Walman advised the Receiver that two other mortgages held by the MIC (and not the Debtor) have been repaid and that funds totaling approximately \$650,000 would be transferred to the Receiver on the condition that such funds reduce the balance owing to the Debtor by the MIC. The additional funds were transferred to the Receiver on October 10, 2024.

#### 4.0 MIC Investor

1. On October 10, 2024, an investor in the MIC sent an email to the Receiver to advise that, among other things, he has significant concerns with the management of the MIC, the use of proceeds raised from investors and Shchavyelyev's lack of disclosure. A copy of the email is provided as Appendix "B".
2. The investor advised the Receiver that he and other investors in the MIC, who collectively advanced several million dollars, support the relief being sought and that he may file an affidavit with additional information on the MIC's practices.

#### 5.0 Conclusion

1. For the reasons provided in Section 3.5 of the First Report, the Receiver continues to recommend that the Court issue an amended receivership order (i) over Services Co. and the MIC, and (ii) authorizing the Receiver to exercise investigative powers.

\* \* \*

All of which is respectfully submitted,

*KSV Restructuring Inc.*

**KSV RESTRUCTURING INC.,  
SOLELY IN ITS CAPACITY AS RECEIVER OF  
EQUITYLINE SPV LIMITED PARTNERSHIP  
AND NOT IN ITS PERSONAL CAPACITY**

## **Appendix “D”**



Court File No.

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

*(Court Seal)*

**MARGARET ELLEN JANK**

**Plaintiff**

**and**

**COMPUTERSHARE TRUST COMPANY OF CANADA, EQUITYLINE SPV  
LIMITED PARTNERSHIP, 2849384 ONTARIO LIMITED c.o.b. as EQUITYLINE  
SPV GENERAL PARTNER INC., EQUITYLINE MORTGAGE INVESTMENT  
CORPORATION, EQUITYLINE FINANCIAL CORPORATION, 2615995 ONTARIO  
LIMITED c.o.b. as EQUITYLINE SERVICES CORPORATION,  
SERGIY SHCHAVYEGYEV, TERRY MICHAEL WALMAN, ELLE MORTGAGE  
CORPORATION, THE MORTGAGE MAVEN INC., JOEL KELMAN, AID  
ALMUSRI, DANIELLE S. HARRISON, HARRISON LEGAL PROFESSIONAL  
CORPORATION and KEYSER MASON BALL LLP**

**Defendants**

**STATEMENT OF CLAIM**

**TO THE DEFENDANT(S):**

**A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the  
Plaintiff. The Claim made against you is set out in the following pages.**

**IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer  
acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules  
of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have  
a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office,  
WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served  
in Ontario.**

-2-

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date \_\_\_\_\_ Issued by \_\_\_\_\_  
Local Registrar

Address of Superior Court of Justice  
court office: 330 University Avenue, 8th Floor  
Toronto ON M5G 1R7

-3-

TO:           COMPUTERSHARE TRUST COMPANY OF CANADA  
              100 University Ave., 8<sup>th</sup> Floor  
              Toronto, ON M5J 2Y1

AND TO:   EQUITYLINE SPV LIMITED PARTNERSHIP  
              550 Hwy 7 Ave. E., Suite 338  
              Richmond Hill, ON L4B 3Z4

AND TO:   2849384 ONTARIO LIMITED c.o.b. as EQUITYLINE SPV GENERAL  
              PARTNER INC.  
              550 Hwy 7 Ave. E., Suite 338  
              Richmond Hill, ON L4B 3Z4

AND TO:   EQUITYLINE MORTGAGE INVESTMENT CORPORATION  
              550 Hwy 7 Ave. E., Suite 338  
              Richmond Hill, ON L4B 3Z4

AND TO:   EQUITYLINE FINANCIAL CORPORATION  
              550 Hwy 7 Ave. E., Suite 338  
              Richmond Hill, ON L4B 3Z4

AND TO:   2615995 ONTARIO LIMITED c.o.b. as EQUITYLINE SERVICES  
              CORPORATION  
              550 Hwy 7 Ave. E., Suite 338  
              Richmond Hill, ON L4B 3Z4

AND TO:   SERGIY SHCHAVYEGYEV  
              550 Hwy 7 Ave. E., Suite 338  
              Richmond Hill, ON L4B 3Z4

AND TO:   TERRY MICHAEL WALMAN  
              c/o Elle Mortgage Corporation  
              1240 Bay Street, Suite 202  
              Toronto, ON M6R 2A7

AND TO:   ELLE MORTGAGE CORPORATION  
              1240 Bay Street, Suite 202  
              Toronto, ON M6R 2A7



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AND TO: THE MORTGAGE MAVEN INC.  
332 Marlee Ave.  
North York, ON M6B 3H8

AND TO: JOEL KELMAN  
c/o The Mortgage Maven Inc.  
332 Marlee Ave.  
North York, ON M6B 3H8  
OR  
35 Glenbury Dr.  
Vaughan, ON L4J 7X5

AND TO: AID ALMUSRI  
Toronto, ON

AND TO: DANIELLE S. HARRISON  
301-10 Kingsbridge Garden Circle  
Mississauga, ON L5R 3K6

AND TO: HARRISON LEGAL PROFESSIONAL CORPORATION  
301-10 Kingsbridge Garden Circle  
Mississauga, ON L5R 3K6

AND TO: KEYSER MASON BALL LLP  
1600-4 Robert Speck Pkwy  
Mississauga, ON L4Z 1S1

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## CLAIM

1. The Plaintiff claims:

- (a) the sum of \$600,000 from all of the Defendants except for Computershare Trust Company of Canada for compensatory damages;
- (b) the sum of \$1 million from all of the Defendants except for Computershare Trust Company of Canada and Keyser Mason Ball LLP for punitive damages;
- (c) an Order completely deleting registered Instrument #WC674138 registered in Land Registry Office #61 in the Province of Ontario, being a Charge stated to be from Margaret Ellen Jank to Computershare Trust Company of Canada encumbering property municipally known as 132 Swift Cres., Guelph Ontario in the sum of \$335,000;
- (d) an Order completely deleting registered Instrument #WC674142 (assignment of rents); WC686902 (transfer of Charge) and WC686903 (transfer of Charge) being instruments related to the above-noted Charge and filed in Land Registry Office #61 in the Province of Ontario;
- (e) prejudgment interest in accordance with section 128 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;

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- (f) postjudgment interest in accordance with section 129 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (g) costs of the within action against each of the Defendants except for Computershare Trust Company of Canada on a full indemnity basis, plus all applicable taxes; and
- (h) Such further and other relief as to this Honourable Court may deem just.

### ***The Parties***

2. Margaret Ellen Jank (“Marg”) is a 74 year old lady who is and was at all material times the owner of property municipally known as 132 Swift Crescent in the City of Guelph in the Province of Ontario.

3. Marg is and was at all material times a vulnerable senior citizen. She lives alone at the said address and has some signs of cognitive deficits. She is technologically unsophisticated. She does not use email to any extent. She would not know how to, nor has she ever used the software application known as DocuSign.

4. The Defendants Equityline SPV Limited Partnership (“Equityline LP”), 2849384 Ontario Limited c.o.b. as Equityline SPV General Partner Inc. (“Equityline GP”), Equityline Mortgage Investment Corporation (“Equityline Mortgage Corp.”), Equityline Financial Corporation, 2615995 Ontario Limited c.o.b. as Equityline Services Corporation

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(“Equityline Services”) are related corporations and/or Limited Partnerships as described above, each of which was incorporated or established under the laws of Ontario. They are controlled by the same individual (the Defendant Shchavyegyev) who is the guiding mind of each. They act jointly in every respect in the business of originating mortgage financing for persons who would not qualify for such financing from mainstream lenders such as Canadian chartered banks, and in the business of advancing funding for the said mortgages and servicing same. The said mortgage loans are advanced at substantially higher than market rates, which rates are effectively increased by exorbitant fees. These Defendants acted in concert and were inseparable throughout in all activities alleged against them below. They are described hereinafter collectively as the “mortgage lenders” or the “Equityline Defendants”.

5. The Defendant Sergiy Shchavyegyev was at all material times the sole beneficial owner and controlling mind of each of the “Equityline” Defendants named in para. 4 above.

6. The Defendant Elle Mortgage Corporation (“Elle”) is a limited company incorporated under the laws of Ontario carrying on business in the City of Toronto and elsewhere in the Province of Ontario. Elle is a mortgage administrator licensed to do business in Ontario.

7. The Defendant Terry Michael Walman (“Walman”) is a lawyer licensed to and practicing law in the Province of Ontario. Walman is and was at all material times the guiding mind and controlling shareholder of Elle.

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8. The Defendants Aid Almusri (“Almusri”) and Joel Kelman (“Kelman”) were at all material times mortgage brokers carrying out their trade in the Province of Ontario as employees of The Mortgage Maven Inc. (“Mortgage Maven”) a mortgage broker.

9. The Defendants Walman and/or Elle and/or Almusri and/or Kelman and/or Mortgage Maven acted at all material times in concert with the Equityline Defendants in procuring a mortgage loan application from the Plaintiff Margaret Jank and a corresponding mortgage loan commitment to the Plaintiff Margaret Jank from Equityline GP or one of the other Equityline Defendants. They are hereinafter described collectively as the “mortgage broker defendants”.

10. The Defendant Danielle S. Harrison (“Harrison”) was at all material times a lawyer duly licensed to practice law in the Province of Ontario. The Defendant Harrison Legal Professional Corporation is a professional corporation incorporated by her to provide legal services.

11. The Defendant Keyser Mason Ball LLP (“KMB LLP”) is a law firm practicing law in the City of Mississauga and elsewhere in the Province of Ontario. The Defendant Harrison was at all material times an employee of Keyser Mason Ball LLP.

### ***Beginning of the Fraud***

12. Commencing in or about December 2021, two individuals known only as “Zeesham” and “Matthew” occasionally accompanied by an unidentified third person, (the “fraudsters”) called upon Marg uninvited at her residence. They informed Marg that certain liens were registered on title to her property and the property of others and would result in her losing her home unless she paid them \$10,000 to join a class action lawsuit, the stated purpose of which was to have all such liens removed from Marg’s property among others. Marg paid Zeeshan and Matthew the requested \$10,000 as she believed that otherwise she was in danger of losing her home.

13. The fraudsters returned to Marg’s home on a number of occasions over the few months following December 2021, persuading Marg to provide them with further money to pay legal fees for the alleged class action lawsuit. Marg paid them in excess of a further \$50,000 over that period of time.

14. There was, of course, no such class action lawsuit, nor were there any liens registered against Marg’s property that could cause her to lose her home.

### ***The Mortgage Application***

15. On or about March 17, 2022, during the course of and as an integral part of the above-mentioned fraud the Defendants Elle and/or Walman and/or Almusri and/or Kelman

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and/or Mortgage Maven caused a mortgage application for a mortgage on Marg's property of \$300,000 on the letterhead of Mortgage Maven. The said Mortgage Application had an email address for the Plaintiff that was unknown to the Plaintiff and never used by the Plaintiff.

16. The purpose of the said mortgage application was to procure funds for Marg that she would eventually be defrauded out of by the fraudsters acting in concert with the Equityline defendants and/or the mortgage broker defendants.

17. The said Mortgage Application bore a facsimile of Marg's signature and was dated April 6, 2022. Marg never requested any of the Defendants Walman, Elle, Almusri, Kelman or Mortgage Maven or anyone else to obtain a mortgage on her property. She never met any of the said Defendants nor did she sign or initial any Mortgage Application. Further, one or more of the said Defendants also prepared a Suitability of Mortgage for Client document. The said document contained a Client Acknowledgement where Margaret Jank is alleged in the document to have "read, discussed and understood all of the above-noted analysis with the above-noted mortgage agent". Margaret Jank never met with any mortgage agent, nor did she ever read, discuss or understand the contents of the said document or sign or initial same.

18. Prior to this, on or about March 24, 2022 a "Disclosure to Borrower", was created. The said document appears on its face to have been prepared by the Defendant Kelman.

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Margaret Jank notwithstanding the appearance of her signature on this document never signed same.

***The Equityline Mortgage***

19. In or about April 2022 the Equityline Defendants received the above-noted Mortgage Application and other related documents from one or more of the Defendants Walman, Elle, Almusri, Kelman and Mortgage Maven.

20. The said Equityline mortgage lenders jointly arranged with the knowledge, consent and authority of the Defendant Sergiy Shchavyegyev to advance the purportedly requested mortgage loan and place a mortgage on Margaret Jank's property in the sum of \$335,000. The funds were advanced in the manner described below and a mortgage was placed on the Plaintiff's property on or about May 27, 2022. The mortgage was placed in the name of Computershare Trust Company of Canada, an innocent "placeholder" of the mortgage which at all material times was beneficially owned by one or more of the Equityline Defendants.

21. The said mortgage purports to bear the signature of Margaret Jank. The Plaintiff denies ever having signed the said Charge, ever having requested the said loan or ever having signed or initialed any of the said documents sent to the Equityline Defendants by one or more of the Defendants procuring the mortgage.



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22. The face value of the mortgage loan in the sum of \$335,000 resulted in a net payment to the lawyer allegedly acting for Margaret Jank (the Defendant Danielle Harrison) in the amount of \$286,863.44 which was net of the following fees:

Lender/Arranging Fee	\$16,750.00
Application Fee	\$ 499.00
Interest Adjustment	\$ 890.72
Brokerage Fees	\$23,700.00
Legal Fees to Lender's Lawyer	\$ 3,796.84
Holdback for Taxes	\$ 2,500.00

23. The said mortgage was for a term of one year, due and payable on May 1, 2023. It was an interest only mortgage at the stated rate of 10.99% with the actual cost of borrowing when all fees were taken into account was 25%. Monthly payments of interest only were in the amount of \$3,068.04, which considerably exceeded Margaret Jank's income.

***Danielle Harrison's Role***

24. One or more of the Equityline Defendants or the Defendants procuring the mortgage (Walman, Elle, Almusri, Kelman or the Mortgage Maven) had a preexisting lawyer/client relationship with the Defendant Danielle Harrison of Keyser Mason Ball LLP. One or more

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of these individuals retained the said Defendant Danielle Harrison to purportedly act on behalf of Margaret Jank in respect of the above-described mortgage transaction.

25. Harrison purported to act for the Plaintiff throughout the transaction including preparing a reporting letter to the Plaintiff dated June 15, 2022. Harrison, through Harrison Legal Professional Corporation, charged Margaret Jank legal fees in the sum of \$4,500 including HST. Harrison purported to have various documents associated with the transaction either executed or initialed by Margaret Jank, many of them appearing to be by DocuSign.

26. The fact is that Danielle Harrison was never engaged by Margaret Jank or anyone acting on her behalf to act for Margaret Jank on this transaction. Danielle Harrison never met Margaret Jank, nor did she ever provide any services of any value for Margaret Jank. She merely knowingly acted as a go between or conduit to funnel documents falsely purporting to have been signed or initialed by Margaret Jank to the mortgage lenders and to receive the mortgage funds and forward same to Margaret Jank's bank account, less her fees.

27. Harrison at all material times acted on the instruction of one or more of the Equityline Defendants and/or the mortgage broker defendants.

***The Fraud Concludes***

28. In or about early June 2022, the original fraudsters returned to Margaret Jank advising her that the fruits of the class action (in actual fact the above-described mortgage funds) had been deposited into her bank account and had to be used for renovations to her home.

29. The original fraudsters persuaded Margaret Jank to provide them with two bank drafts made payable to alleged home renovators to carry out the promised home renovations. The total amount of the bank drafts exhausted or came close to exhausting any funds paid into Margaret Jank's bank account by the proceeds of the Equityline mortgage described above.

30. In the end result, by virtue of the various transactions described above, Margaret Jank was left with nothing, and her property was encumbered to the extent of \$335,000 plus ongoing interest.

***The Defendants' Wrongdoing***

31. Each of the Defendants except Computershare Trust Company of Canada and Keyser Mason Ball LLP participated in, furthered or was wilfully blind to the above-described ongoing fraud to deprive Margaret Jank of \$335,000 by placing the above-described Equityline mortgage on her said property.

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32. The Plaintiff states and the fact is that one or more of the Defendants Walman, Elle, Almusri, Kelman and the Mortgage Maven acting in concert and with the full knowledge and approval of the Equityline Defendants, prepared a false mortgage application in the name of Margaret Jank. The responsible Defendants failed to meet their obligations to Margaret Jank imposed upon them by law pursuant to the *Mortgage Brokerages, Lenders and Administrators Act 2006*, S.O. 2006, c.29. One or more of the said Defendants prepared a false mortgage application; one or more of the said Defendants never reviewed the terms of the mortgage with, nor speak to nor meet with Margaret Jank. The Defendant responsible for procuring the mortgage application either knew that Margaret Jank's signature to the mortgage application and related documents was forged or they were wilfully blind to same.

33. One or more of the Defendants Walman, Elle, Almusri, Kelman or Mortgage Maven transmitted the mortgage application to the Equityline Defendants when they knew or ought to have known that the mortgage application was fraudulent, or they were wilfully blind to same. The responsible Defendant(s) received substantial income for their role in the mortgage transaction.

34. The Defendant the Mortgage Maven was the employer of the Defendants Almusri and Kelman. The Mortgage Maven entirely failed in its supervisory obligations to ensure that its mortgage agent employees acted in a fair and diligent manner according to law. The Mortgage Maven is responsible in law for the actions of Almusri and Kelman as described above.

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35. The Defendant Danielle Harrison was either an active and willing participant in the fraud or was wilfully blind to same. She owed Margaret Jank a duty in law to fairly advise her regarding the mortgage transaction and to ensure that the Plaintiff knew exactly what she was getting into. Harrison either forged Margaret Jank's signature or initials to various document prepared in connection with the said mortgage or was wilfully blind to the fact of those documents having been forged. Harrison was completely derelict in every respect in carrying out the duties a lawyer acting for the Plaintiff had in the above circumstances.

36. Further, Harrison was well aware through other transactions she was engaged in by companies related to the mortgage lenders that this was a predatory mortgage which for Margaret Jank was unnecessary and unwise in the extreme. She failed throughout to do anything to protect the interests of her client.

37. Harrison throughout her conduct as described above was at all material times an employee of the law firm of Keyser Mason Ball LLP. Keyser Mason Ball LLP had previously been warned by the Law Society of Ontario concerning some highly questionable conduct of Harrison while in their employ in connection with the placing of mortgages or other secure loans. Keyser Mason Ball LLP had a duty in law to effect a reasonable level of supervision over the affairs of their employees including Danielle Harrison in order to protect members of the public from conduct unbecoming a lawyer.

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38. Keyser Mason Ball LLP did nothing to supervise the work of Harrison even after being warned by the Law Society of Ontario to do so. Their failure to exercise a reasonable level of supervision over Harrison led directly to the damages sustained by Margaret Jank.

39. The Equityline Defendants for their part were either aware that the mortgage to Margaret Jank was the product of a fraudulent scheme or they were wilfully blind to same.

They *inter alia*:

- (a) Proceeded with a mortgage application that in and of itself bore all of the hallmarks of a transaction of questionable legitimacy;
- (b) They proceeded with the mortgage loan in the absence of any underwriting practices usual and ordinary to their industry;
- (c) They were aware that they were dealing with at least one mortgage agent in the person of the Defendant Almusri of unsavory character and questionable ethics;
- (d) They were aware that they were making a loan to a 72 year old single lady living on her own that had no apparent purpose or need and carried with it exorbitantly punitive financial terms. Notwithstanding this information they made no effort to investigate even the very facts they knew or thought they knew about Margaret Jank.

***In The Alternative***

40. In the alternative, the Plaintiff pleads that the mortgage described above in the name of Computershare Trust Company of Canada is unconscionable, unenforceable in law and ought to be struck from the title to her property.

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41. There was substantial inequality in the bargaining power between Margaret Jank and the Equityline Defendants. Margaret Jank was and is a frail, vulnerable elderly, technologically unsophisticated individual. She gained no benefit whatsoever from the transaction. The mortgage transaction was in all of the circumstances improvident.

42. Margaret Jank pleads and relies on the *Unconscionable Transactions Relief Act*, R.S.O. 1990, c.U.2.

43. The Plaintiff proposes that this action be tried at Toronto, Ontario.

July 19, 2024

**ADAIR GOLDBLATT BIEBER LLP**

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RCP-E 14A (June 9, 2014)

Electronically issued / Délivré par voie électronique : 19-Jul-2024  
Toronto Superior Court of Justice / Cour supérieure de justice  
JANN  
Plaintiff

-and- Court File No./N° du dossier du greffe : CV-24-00724165-0000  
COMPUTERSHAKE et al.  
Defendants

Court File No.

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
  
PROCEEDING COMMENCED AT  
TORONTO

**STATEMENT OF CLAIM**

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Lawyers for the Plaintiff



## **Appendix “E”**

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

THE HONOURABLE	)	THURSDAY, THE 17 <sup>th</sup>
	)	
JUSTICE KIMMEL	)	DAY OF OCTOBER, 2024

**EQUITABLE BANK**

Applicant

- and -

**EQUITYLINE SPV LIMITED PARTNERSHIP**

Respondent

**ORDER**

**THIS MOTION** made by KSV Restructuring Inc. in its capacity as receiver (in such capacity, the “**Receiver**”) of EquityLine SPV Limited Partnership (the “**Debtor**”) for an Order on consent granting the Receiver with investigative powers in respect of the Debtor, was heard this day, via videoconference at the courthouse at 330 University Avenue, Toronto, Ontario.

**ON READING** the Notice of Motion dated October 2, 2024, and the First Report of the Receiver dated October 2, 2024, as supplemented and filed, and on hearing the submissions of counsel for the Receiver and such other parties listed on the Participant Information Form, no one appearing for any other party although duly served as appears from the affidavit of service sworn and filed, and upon being advised of the consent of the Debtor,

## SERVICE

1. **THIS COURT ORDERS** that the time for service of the Motion Record be and is hereby abridged and validated, such that this motion is properly returnable today and hereby dispenses with further service thereof.

## INVESTIGATIVE POWERS

2. **THIS COURT ORDERS** that the Receiver is hereby authorized to exercise all available investigative and other rights and remedies that are available to a trustee in bankruptcy under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, with respect to the Debtor.

3. **THIS COURT ORDERS** that the Receiver is hereby authorized to examine under oath any person, including but not limited to representatives of the Debtor, that the Receiver reasonably considers to have knowledge of the affairs or property of the Debtor.

## GENERAL

4. **THIS COURT ORDERS** that this Order is effective as of 12:01 a.m. Toronto Time on the date of this Order and is enforceable without the need for entry and filing.



Digitally signed by  
Jessica Kimmel  
Date: 2024.10.17  
15:37:53 -04'00'

**EQUITABLE BANK**

and

**EQUITYLINE SPV LIMITED PARTNERSHIP**

Applicant

Respondent

Court File No.: CV-24-00721560-00CL

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

Proceedings commenced in Toronto

**ORDER**  
**(Investigative Powers)**

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Lawyers for the Receiver



ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL/ENDORSEMENT SLIP**

**COURT FILE NO.:** CV-24-00721560-00CL

**DATE:** 17-OCT-2024

**NO. ON LIST:** 6

**TITLE OF PROCEEDING:** EQUITABLE BANK v. EQUITYLINE SPV LIMITED  
PARTNERSHIP

**BEFORE:** JUSTICE KIMMEL

**PARTICIPANT INFORMATION**

**For Plaintiff, Applicant, Moving Party:**

Name of Person Appearing	Name of Party	Contact Info
Rebecca L. Kennedy	Counsel to the Receiver - KSV Restructuring Inc.	rkennedy@tgf.ca
Derek Harland	Counsel to the Receiver - KSV Restructuring Inc.	dharland@tgf.ca

**For Defendant, Respondent, Responding Party:**

Name of Person Appearing	Name of Party	Contact Info
Kyle Plunkett	Counsel for Applicant, Equitable Bank	kplunkett@airdberlis.com
Judy Hamilton	Lawyers for the Respondent, EquityLine SPV Limited Partnership	jh@friedmans.ca

**For Other, Self-Represented:**

<b>Name of Person Appearing</b>	<b>Name of Party</b>	<b>Contact Info</b>
Glenn Cohen	Lawyer for Elle Mortgage Corporation	glenn@glenncohenlaw.ca
Bruce Darlington (did not appear) Tudor Carsten (did not appear)	Lawyers for Computershare Trust Company of Canada	bruce.darlington@ca.dlapiper.com tudor.carsten@ca.dlapiper.com

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**ENDORSEMENT OF JUSTICE KIMMEL:**

- [1] Following an application brought by Equitable Bank ("EQB") on July 30, 2024, and pursuant to an order of the Court (the "Receivership Order") dated August 8, 2024 (the "Date of Appointment"), KSV Restructuring Inc. ("KSV") was appointed as receiver (in such capacities, the "Receiver") of all of the present and future assets, undertakings and real and personal property of EquityLine SPV Limited Partnership ("SPV") (the "SPV Property"), including its beneficial ownership interests in mortgage loans (the "EquityLine Mortgages"), pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990 c. C.43, as amended (the "CJA"), and section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA").
- [2] The Receiver was originally seeking by this motion an amended and restated Receivership Order (the "A&R Receivership Order") that:
- a. expands the scope of the receivership to include all of the property of the MIC and Services Co., the related entities implicated in these irregularities;
  - b. provides the Receiver with enhanced investigative powers to allow the Receiver to determine the causes of the irregularities and whether there are any sources of recovery available to the Receiver and the stakeholders of each entity; and
  - c. provides the Receiver with the power to assign the Debtors into bankruptcy.
- [3] The Debtor, EquityLine SPV Limited Partnership, and another secured creditor, Elle Mortgage Corporation, opposed the motion and specifically were opposed to the relief sought in sub-paragraphs (a) and (c) above.

[4] Prior to the hearing of the motion, an agreement was reached for an order on consent of the Debtor EquityLine SPV Limited Partnership in respect of the relief sought in sub-paragraph (b) above in respect of it, which is not opposed by any other party.

[5] Counsel for the Receiver has provided two precedents for the court granting a court appointed supervising officer investigative powers equivalent to those available to trustees in bankruptcy under the BIA in circumstances where concerns have been identified by the that court officer about historic transactions and conduct of the debtors. See *Boreal Capital Partners Ltd (Re)*, 2021 ONSC 7997, at paras. 8-12 and 46 *Enlightened Funding Corp. v. Velocity Asset & Credit Corp. et al.*, Endorsement of Justice Conway dated December 8, 2023 at paras 6-7 and December 8, 2023 Order, at paras. 9-10.

[6] Although here the Debtor does not agree with the irregularities described by the Receiver in its First Report dated October 2, 2024, Supplement to the First Report dated October 11, 2024 and its factum in support of its request for the expanded investigative powers, it is consenting to the granting of these expanded powers and prefers this to the alternative of the Receiver being authorized to assign it into bankruptcy in order to gain these investigative powers.

[7] I am satisfied, based on the authorities provided, that the court has the jurisdiction to grant the Receiver these expanded powers am prepared to do so in the circumstances of this case.

[8] The balance of the relief sought by the Receiver on this motion is withdrawn by the Receiver, subject to satisfaction of the agreed settlement terms.

[9] The order signed by me today may issue.

A handwritten signature in dark ink, appearing to read "Kimmel J.", with a stylized flourish at the end.

KIMMEL J.