



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:

Name of Person Appearing	Name of Party	Contact Info
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

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 cursive script, appearing to read "Kimmel J.", written in black ink.

KIMMEL J.