



ONTARIO SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

**COUNSEL/ENDORSEMENT SLIP**

COURT FILE NO.: CV-25-00752340- 00CL

DATE: FEBRUARY 27, 2026

NO. ON LIST: 3

**TITLE OF PROCEEDING: DEUTSCHE BANK TRUST COMPANY AMERICAS et al v GSC SOLAR  
FUND I LP et al**  
**BEFORE: JUSTICE CAVANAGH**

**PARTICIPANT INFORMATION**

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

Name of Person Appearing	Name of Party	Contact Info
Mike Noel	Counsel for the Applicants - Deutsche Bank Trust Company Americas et al	mnoel@torys.com
David Bish		dbish@torys.com

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

Name of Person Appearing	Name of Party	Contact Info

**For Other, Self-Represented:**

Name of Person Appearing	Name of Party	Contact Info
Stephen Ferguson	Court-Appointed Receiver - Alvarez & Marsal Canada Inc.	sferguson@alvarezandmarsal.com
Bradley Wiffen	Counsel for Receiver - Alvarez & Marsal Canda Inc.	bwiffen@goodmans.ca
Sam Babe	Counsel for HIAH Economic Dev LP	sbabe@blg.com
Fraser Mackinnon Blair	Counsel for Nipissing First Nation	fraser.mackinnon.blair@dentons.com

## **ENDORSEMENT OF JUSTICE CAVANAGH:**

[1] On September 23, 2025 (the "Appointment Date"), upon application by Deutsche Bank Trust Company Americas (the "Agent"), and Deutsche Bank AG, Canada Branch and The Bank of Nova Scotia (together, the "Lenders", and collectively with the Agent, the "Applicants"), Alvarez & Marsal Canada Inc. was appointed by an Order (Appointing Receiver) (as amended, the "Receivership Order") of the Ontario Superior Court of Justice (Commercial List) (the "Court"), as receiver and manager (in such capacities, the "Receiver"), without security, of: (a) all of the assets, undertakings and properties of GSC Solar Fund I LP, GSC Solar Fund II LP, GSC Solar Fund I GP Inc., GSC Solar Fund II GP Inc., GSC Solar Leasing LP, GSC Solar Leasing II LP, GSC Solar Leasing GP Inc. and GSC Solar Leasing II GP Inc. (collectively, the "Debtors"); and (b) the Residential Redirected Account (collectively, the "Property").

[2] The Grasshopper Entities directly or indirectly own and operate the Solar Projects, which consist of two primary portfolios: (a) a commercial and industrial portfolio consisting of approximately 132 Solar Projects (the "C&I Portfolio"); and (b) a residential portfolio consisting of approximately 3,200 Solar Projects (the "Residential Portfolio").

[3] Grasshopper is comprised of a complex corporate structure of corporations and partnerships that own the Solar Projects. Pursuant to the Receivership Order, the Receiver was appointed in respect of eight Debtor entities. The Debtors hold direct or indirect equity interests in 49 subsidiaries and affiliates that constitute the "Non-Debtor Obligors" for purposes of the Receivership Order. Although the Receiver is not the receiver of the Non-Debtor Obligors, the Receivership Order contains a number of authorizations and protections in relation to the Non-Debtor Obligors (including a stay of proceedings and authorization for the Receiver to make payments on behalf of the Non-Debtor Obligors) to preserve normal course business operations during these proceedings.

[4] Grasshopper's Residential Portfolio is wholly-owned by the Debtors. The C&I Portfolio is owned by the Non-Debtor Obligors, in which the Debtors hold direct or indirect equity interests. Sixteen of the Non-Debtor Obligors have third-party co-owners (the "Third-Party Project Co-Owners") that have majority or minority equity interests in the applicable Non-Debtor Obligors.

[5] Grasshopper obtained financing from the Lenders under a credit agreement dated as of March 19, 2018 (as amended and/or restated, the "Credit Agreement") that matured on June 29, 2025. The Debtors and the Non-Debtor Obligors granted the Agent a security interest in all or substantially all of their assets to secure the repayment of the Credit Agreement indebtedness. The Agent also has a security interest in the equity interests in the Non-Debtor Obligors held by the Third-Party Project Co-Owners.

[6] The proposed Sale Process Approval Order approves the Sale Advisor Agreement and the retention of the Sale Advisor thereunder to assist in the development and implementation of the Sale Process. After evaluating the proposals received, the Receiver, in consultation with the Lenders, selected Scotia Capital as the Sale Advisor to assist in the development and implementation of the Sale Process. Scotia Capital was selected as the Sale Advisor based on several factors, including, its credentials, extensive experience in renewable asset transactions, and competitive fee structure. Under the Sale Advisor Agreement, the Sale Advisor is eligible to be paid a Completion Fee or a Base Fee by the Debtors (subject to the requirements in the Sale Advisor Agreement) and to be reimbursed for all reasonable out-of-pocket expenses.

[7] The proposed Sale Process Approval Order grants the Sale Advisor Charge as security for the payment of any Completion Fee or Base Fee that may become payable to the Sale Advisor under the Sale Advisor Agreement. The proposed Sale Advisor Charge will rank subordinate in priority to: (a) the Receiver's Charge and the Receiver's Borrowing Charge granted under the Receivership Order; and (b) the Encumbrances, if any, prescribed by sections 14.06(7), 81.4(4) and 81.6(2) of the Bankruptcy and Insolvency Act (the "BIA"), and will rank in priority to all other Encumbrances.

[8] The proposed Sale Process authorizes the Receiver and the Sale Advisor to canvass market interest for potential Transactions in respect of the Grasshopper Business and Property in whole or in part, including the C&I Portfolio and the Residential Portfolio. The proposed Sale Process was developed by the Receiver in consultation with the Sale Advisor and the Receiver's legal counsel. The Lenders were also consulted in the development of the Sale Process and support the commencement of the Sale Process in accordance with its terms.

[9] The proposed Sale Process will market the business and assets held by all Grasshopper Entities, including the Debtors and the Non-Debtor Obligors. Although the Receiver is not the receiver of the Non-Debtor Obligors, the Receiver is appointed over the direct and indirect equity interests in the Non-Debtor Obligors owned by the Debtors. In addition, the Non-Debtor Obligors have granted the Agent a security interest in all or substantially all of their respective assets to secure the repayment of the Indebtedness.

[10] The Applicants did not seek a receivership order over the Non-Debtor Obligors at the outset of these proceedings in order to preserve normal course business operations and stakeholder interests. However, the Applicants expressly reserved their rights to seek the appointment of a receiver in respect of some or all of the Non-Debtor Obligors and/or the equity interests in the applicable Non-Debtor Obligors held by the Third-Party Project Co-Owners at a later date if such appointment became necessary or appropriate.

[11] The proposed Sale Process Approval Order authorizes the Receiver to apply to this Court for advice and directions in connection with the Sale Process or the implementation thereof, including to seek to include the Non-Debtor Obligors or other obligors directly within the scope of the receivership if and when the Receiver may consider appropriate in connection with the implementation of the Sale Process or any proposed Transaction(s). The Receiver is not at this time seeking any such relief in connection with the Sale Process Approval Order. The Receiver expects that whether or not any such relief is required will become clear as the Sale Process develops and bidders' views emerge with respect to the structure of potential Transaction(s).

[12] The Receiver brings this motion for a sale process approval order (the "Sale Process Approval Order"), among other things:

- a. approving a sale process (the "Sale Process") in respect of the Grasshopper Business and Property (as defined below);
- b. authorizing and directing the Receiver and Scotia Capital Inc. ("Scotia Capital"), in its capacity as the Receiver's sale advisor in connection with the Sale Process (in such capacity, the "Sale Advisor"), to do all things reasonably necessary or desirable to give full effect to the Sale Process and to perform their respective obligations thereunder;
- c. approving the engagement letter dated February 19, 2026, between the Receiver and the Sale Advisor (the "Sale Advisor Agreement"), and the retention of the Sale Advisor under the terms thereof, *nunc pro tunc*, and authorizing and directing the Receiver to make the payments contemplated thereunder when earned and payable in accordance with the terms and conditions of the Sale Advisor Agreement;
- d. granting a charge on the Property in favour of the Sale Advisor (the "Sale Advisor Charge") as security for the payment of any Completion Fee or Base Fee (each as defined in the Sale Advisor Agreement) that may become payable to the Sale Advisor under the Sale Advisor Agreement; and
- e. sealing the Confidential Appendix to the First Report, which contains an unredacted version of the Sale Advisor Agreement (the "Confidential Appendix").

### ***Should the Sale Process be Approved?***

[13] Section 243(1) of the BIA provides the Court with broad discretion to grant powers to a receiver, including the authority to take possession and control over the business and property and to take any other action that the court considers advisable.

[14] Although the decision to approve a sale process is distinct from the approval of a resulting sale transaction, courts have held that the reasonableness and adequacy of any sale process proposed by a court-appointed receiver is to be assessed in light of the factors (the *Soundair* factors) that a court will take into account when considering the approval of a proposed sale. In addition to the above *Soundair* factors, the Court must also assess: (a) the fairness, transparency and integrity of the proposed process; (b) the commercial efficacy of the proposed process in light of the specific circumstances facing the receiver; and (c) whether the sale process will optimize the chances, in the particular circumstances, of securing the best possible price for the assets up for sale. See *Ontario Securities Commission v. Bridging Finance Inc.*, 2021 ONSC 5338 at paras. 7-8.

[15] I have considered the relevant factors and I am satisfied that the proposed Sale Process is reasonable and appropriate in the circumstances and will maximize the likelihood of obtaining the best available transaction(s) in respect of the Grasshopper Business and Property.

### ***Should the Sale Advisor Agreement and the Sale Advisor Charge be Approved?***

[16] The Court's jurisdiction to approve the Sale Advisor Agreement is confirmed in the Receivership Order, which directs that the Receiver is empowered to engage advisors to assist with the exercise of the Receiver's powers and mandate. In addition, the broad discretion contained in section 243(1)(c) of the BIA provides the statutory basis for the Court to approve the Receiver's engagement of the Sale Advisor and, by extension, the related Sale Advisor Charge.

[17] I am satisfied that the Sale Advisory Agreement and the Sale Advisory Charge should be approved. I accept the submissions at paras. 33-36 of the Receiver's factum. I am satisfied that the fact that the Sale Advisor is wholly owned by The Bank of Nova Scotia, a Lender under the Credit Agreement, is being addressed properly, as described in para. 37 of the Receiver's factum. The Lenders support this engagement.

### ***Should information in the Confidential Appendix be sealed?***

[18] The proposed Sale Process Approval Order provides for the sealing of the Confidential Appendix, which contains an unredacted version of the Sale Advisor Agreement, pending the closing of a Transaction entered into pursuant to the Sale Process.

[19] The Sale Advisor Agreement attached to the First Report on a public basis contains a redaction of the quantum of the Fixed Percentage. Under the Sale Advisor Agreement, the Fixed Percentage is multiplied by Transaction Value to determine the quantum of the Completion Fee. Importantly, the unredacted version of the Sale Advisor Agreement and the First Report disclose that the minimum Completion Fee is \$1,500,000, which, if divided by the Fixed Percentage, provides a Transaction Value that potential bidders may view as a threshold. The effect of the proposed sealing order is to maintain the confidentiality of the Fixed Percentage until the completion of the Sale Process.

[20] The Receiver and the Sale Advisor believe that disclosure of the Fixed Percentage could cause bidders to form a view with respect to the potential value range of Transactions, which would harm the competitive tension and effectiveness of the Sale Process. I am satisfied that The Sale Process is more likely to maximize value where bidders form their expectations as to value based on their due diligence and review of the Grasshopper Business and Property, rather than anchoring on an advisor compensation metric established at the outset of the Sale Process. The temporary sealing of the Confidential Appendix is necessary to preserve the integrity of the Sale

Process and maximize recoveries of the Grasshopper Business and Property for the benefit of the Debtors' stakeholders.

[21] I am satisfied that the *Sherman Estate* test is met in respect of the proposed limited sealing order.

[22] Order to issue as signed by me today. This order is effective from today's date and is enforceable without the need for entry and filing.



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