

COURT OF APPEAL FOR ONTARIO

DATE: 20190102  
DOCKET: M49872 (C65512)

Watt J.A. (In Chambers)

BETWEEN

Business Development Bank of Canada

Applicants  
(Responding Party)

and

Astoria Organic Matters Ltd. and Astoria Organic Matters Canada LP

Respondents

Melvyn L. Solmon and Rajiv Joshi, for the moving party Susglobal Energy  
Belleville Ltd.

Miranda Spence and Kyle Plunkett, for the responding party BDO Canada Ltd.  
(the Receiver)

Heard and released orally: December 10, 2018

ENDORSEMENT

[1] For reasons that I will subsequently provide I am satisfied that:

- i. this appeal is governed by the provisions of the *Bankruptcy and Insolvency Act* ("BIA") in particular its s. 193 and not by s. 6 of the *Courts of Justice Act*.

- ii. the moving party has failed to demonstrate why an extension of time should be granted to permit it to serve and file a notice of appeal under the *BIA*;
- iii. the moving party has failed to establish an automatic right of appeal under s. 193(c) of the *BIA*; and
- iv. the moving party has failed to satisfy the requirements for leave to appeal under s. 193(e) of the *BIA* in accordance with the decision of *Business Development Bank of Canada v. Pine Tree Resorts Inc.*, 2013 ONCA 282.

[2] In the result, the motion fails in its entirety.

*Daniel Levesque J.*