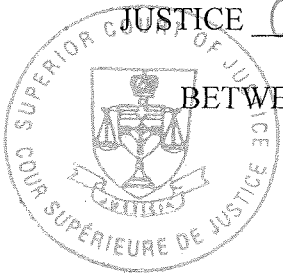


ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE Madam ) WEDNESDAY, THE 29<sup>TH</sup>  
 )  
JUSTICE CONWAY ) DAY OF AUGUST, 2018



BETWEEN:

**BUSINESS DEVELOPMENT BANK OF CANADA**

Applicant

and

**ASTORIA ORGANIC MATTERS LTD. and  
ASTORIA ORGANIC MATTERS CANADA LP**

Respondents

**ORDER  
(re Interim Distribution and Fee Approval)**

**THIS MOTION**, made by BDO Canada Limited, in its capacity as Court appointed receiver (in such capacity, the “**Receiver**”), without security, of the undertaking, property and assets of each of Astoria Organic Matters Ltd. and Astoria Organic Matters Canada LP (together, the “**Debtors**”) for an Order, *inter alia*, (i) approving each of the Fourth Report of the Receiver dated December 8, 2017 (the “**Fourth Report**”), the Supplement to the Fourth Report of the Receiver dated January 19, 2018 (the “**Supplement to Fourth Report**”), the Second Supplement to Fourth Report dated February 20, 2018 (the “**Second Supplement to Fourth Report**”), the Third Supplement to Fourth Report dated February 27, 2018 (the “**Third Supplement to Fourth Report**”) and the Fourth Supplement to Fourth Report dated March 4, 2018 (the “**Fourth Supplement to Fourth Report**” and collectively with the Supplement to Fourth Report, Second Supplement to Fourth Report and Third Supplement to Fourth Report, the “**Supplements to**

**Fourth Report**”), and the conduct and actions of the Receiver set out therein; (ii) approving the Fifth Report of the Receiver dated August 9, 2018 (the “**Fifth Report**”), and the conduct and actions of the Receiver set out therein; (iii) authorizing and directing the Receiver to distribute certain funds to Construction Lien Claimants on account of the Debtors’ indebtedness owing to the Construction Lien Claimants in full and final satisfaction of their respective lien claims registered as against the Debtors; (iv) authorizing and directing the Receiver to distribute certain funds to Casa-Dea Finance Limited (“**Casa-Dea**”) on account of the Debtors’ secured indebtedness owing to Casa-Dea for principal, interest and costs; (v) approving the fees and disbursements of the Receiver and its legal counsel, Aird & Berlis LLP (“**A&B**”); and (vi) approving the Receiver’s interim Statement of Receipts and Disbursements as at July 31, 2018 (as appended to the Fifth Report), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Motion Record of the Receiver, including the Fifth Report and the appendices thereto, the affidavit of Christopher Mazur sworn August 1, 2018 and the affidavit of Steve Graff sworn August 8, 2018, and on hearing the submissions of counsel for the Receiver, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Paula Hoosain sworn August 9, 2018, filed:

#### **DEFINITIONS AND SERVICE**

1. **THIS COURT ORDERS** that all capitalized terms not otherwise defined in this Order shall have the meaning ascribed to them in the Fifth Report.
2. **THIS COURT ORDERS AND DECLARES** that the time for service of this Motion and the Motion Record herein are properly returnable today and hereby dispenses with further service thereof.

#### **APPROVAL OF THE FOURTH REPORT, THE SUPPLEMENTS TO FOURTH REPORT AND THE FIFTH REPORT**

3. **THIS COURT ORDERS** that each of the Fourth Report and the Supplements to Fourth Report, and the conduct and activities of the Receiver described therein be and are hereby approved;

4. **THIS COURT ORDERS** that the Fifth Report and the conduct and activities of the Receiver described therein be and are hereby approved;

#### **INTERIM DISTRIBUTIONS**

5. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to make a distribution to Casa-Dea in the amount of \$48,000 as outlined in the Fifth Report on account of the Debtors' secured indebtedness owing to Casa-Dea for principal, interest and costs, in respect of the Belleville Deposit.

6. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to make a distribution to Baldwin Law, counsel to Fitzgibbon Construction Limited ("**Fitzgibbon**"), in the amount of \$91,135.71 as outlined in the Fifth Report on account of the Debtors' indebtedness owing to Fitzgibbon in full and final satisfaction of its Lien Claim (the "**Fitzgibbon Distribution**").

7. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to make a distribution to Gardiner Roberts LLP, counsel to Van Soelen Landscaping Ltd. ("**Van Soelen**"), in the amount of \$142,613.31 as outlined in the Fifth Report on account of the Debtors' indebtedness owing to Van Soelen in full and final satisfaction of its Lien Claim (the "**Van Soelen Distribution**").

8. **THIS COURT ORDERS** that the Receiver be and is hereby authorized and directed to make a distribution to Kennaley Construction Law Professional Corporation, counsel to Ken Tulloch Construction Ltd. ("**Ken Tulloch**"), in the amount of \$311,837.93 as outlined in the Fifth Report on account of the Debtors' indebtedness owing to Ken Tulloch in full and final satisfaction of its Lien Claim (collectively with the Fitzgibbon Distribution and the Van Soelen Distribution, the "**Construction Lien Distributions**").

9. **THIS COURT ORDERS** that the Construction Lien Distributions shall be held in escrow by counsel to the Construction Lien Claimants until (i) each of the Construction Lien Claimants files a Notice of Discontinuance in respect of each of the registered mortgagees (other than Business Development Bank of Canada) that were named as defendants in their respective Lien Actions, and (ii) orders are obtained from the Court, on consent of Business Development

Bank of Canada, the Construction Lien Claimants and 1684567 Ontario Inc., discharging the registered liens and vacating the certificates of action registered against title to property municipally known as 704 Phillipston Road, Belleville, Ontario, K0K 2Y0, and legally as PIN 40532-0032 (LT) and dismissing the Lien Actions without costs.

#### **APPROVAL OF INTERIM RECEIPTS AND DISBURSEMENTS**

10. **THIS COURT ORDERS** that the Receiver's Interim Statement of Receipts and Disbursements for the period of April 13, 2017 to July 31, 2018, as set out in Appendix "N" to the Fifth Report, be and is hereby approved.

#### **APPROVAL OF FEES AND DISBURSEMENTS**

11. **THIS COURT ORDERS** that the fees and disbursements of the Receiver, being fees and disbursements of \$86,954.47 plus HST of \$11,304.08, totalling \$98,258.55 as set out in Appendix "L" to the Fifth Report, are hereby approved.

12. **THIS COURT ORDERS** that the fees and disbursements of the Receiver's legal counsel, A&B, being \$190,967.50 in fees and disbursements of \$8,575.24 plus HST of \$24,620.16, totalling \$214,162.90 as set out in Appendix "M" to the Fifth Report, are hereby approved.

  
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ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

AUG 29 2018

PER / PAR:



**BUSINESS DEVELOPMENT BANK OF CANADA and**

**ASTORIA ORGANIC MATTERS LTD. and  
ASTORIA ORGANIC MATTERS CANADA LP**

**Applicant**

**Respondents**

(Short title of proceeding)

Court File No. CV-17-11760-00CL

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceeding commenced at Toronto**

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**ORDER  
(Interim Distribution and Fee Approval)**

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AIRD & BERLIS LLP  
Barristers and Solicitors  
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181 Bay Street  
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Tel: 416.863.1500  
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**Steven L. Graff (LSUC # 31871V)  
Kyle Plunkett (LSUC # 61044N)**

*Lawyers for BDO Canada Limited, in its  
capacity as Court appointed receiver of  
Astoria Organic Matters and Ltd. and  
Astoria Organic Matters Canada LP*

COUNSEL SLIP

Court File No CV-17-11760-00CL

Date: Aug 29/18

BUSINESS DEVELOPMENT BANK OF CANADA  
vs.  
Title of Proceeding ASTORIA ORGANIC MATTERS LTD.

No. On List 5

Counsel for:

- Plaintiff(s)
- Applicant(s)
- Petitioner(s)

Kyle Plunkett, Aird & Berlis LLP

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 ↳ E: kplunkett@airdberlis.com Fax No. \_\_\_\_\_  
 ↳ counsel for the Court-appointed Receiver

Counsel for:

- Defendant(s)
- Respondent(s)

Phone No. \_\_\_\_\_

Fax No. \_\_\_\_\_

Aug 29/18

Unopposed.

Insd distribn & fee approval order signed, as per settlement between BDC & certain lien claimants, and <sup>otherwise</sup> supported by BDC. The Rec also supports the order.

Conway J.