

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

BUSINESS DEVELOPMENT BANK OF CANADA

Applicant

-and-

ASTORIA ORGANIC MATTERS LTD. and ASTORIA ORGANIC MATTERS CANADA LP

Respondents

**RESPONDING MOTION RECORD
(returnable on November 4, 2019)**

Date: October 11, 2019

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TAB DOCUMENT

1. Costs Outline re: Garnishment Costs as at October 11, 2019

TAB 1

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**COSTS OUTLINE OF BDO CANADA LIMITED, IN ITS CAPACITY AS COURT-APPOINTED RECEIVER OF ASTORIA ORGANIC MATTERS LTD. AND ASTORIA ORGANIC MATTERS CANADA LP
(Motion Returnable November 4, 2019)**

BDO Canada Limited, in its capacity as Court-appointed receiver of Astoria Organic Matters Ltd. and Astoria Organic Matters Canada LP (in such capacity, the "Receiver"), provides the following outline of the submissions in support of its request for costs relating to its efforts to enforce the outstanding costs orders:

	Partial	Substantial	Full
Fees (as detailed below – see fee items #1)	\$9,634.95	\$14,678.42	\$19,967.67
Disbursements (as detailed below)	\$2,574.93	\$2,574.93	\$2,574.93
Total :	\$12,209.88	\$17,253.35	\$22,542.60

The following points are made in support of the costs sought with reference to the factors set out in subrule 57.01(1):

• **the complexity of the proceeding**

• **the importance of the issues**

This motion, brought by the Receiver, for:

- costs of its efforts to enforce previous costs Orders made against SusGlobal Belleville in favour of the Receiver in this proceeding

• **the conduct of any party that tended to shorten or to lengthen unnecessarily the duration of the proceeding**

N/A

• **whether any step in the proceeding was improper, vexatious or unnecessary or taken through negligence, mistake or excessive caution**

N/A

• **a party's denial of or refusal to admit anything that should have been admitted**

N/A

• **the experience of the party's lawyer**

See below

• **the hours spent, the rates sought for costs and the rate actually charged by the party's lawyer**

See below

FEE ITEMS	PERSONS	PARTIAL INDEMNITY RATE	SUBSTANTIAL INDEMNITY RATE	FULL INDEMNITY
1. Prepare Enforcement Materials Various correspondence with client and opposing counsel re payment of cost awards; Attend to filing writs against all three costs awards dated July 3, 2018, November 8, 2018 and December 10, 2018 in Belleville; Discussions re next steps with enforcement; Attend to preparation of garnishment materials against PACE against all three costs orders; Receipt and review of Garnishee Statement re same; Discussions with client re additional garnishments; Preparation of 10 additional garnishment materials against Aim Environmental, AIM Waste Management, AL White Landscaping, C Smith Bus Line, City of Belleville, City of Peterborough, Keys Sand and Stone, Northumberland County, Parkside Landscaping and Waste Management; Various discussions with numerous garnishees; Receipt and review of 10 additional Garnishee Statements; Review of funds being paid to the Sheriff of Toronto; Telephone discussion with Sheriff of Toronto re payment of same; Discussions with SusGlobal re payment of costs awards. Partial: \$8,526.50 + HST = \$9,634.95 Substantial: \$12,989.75 + HST = \$14,678.42 Full: \$17,670.50 + HST = \$19,967.67	<u>Lawyers:</u>			
	Steven Graff (1991)	2.6 hrs. x \$390 = \$1,014.00	2.6 hrs. x \$585 = \$1,521.00	2.6 hrs. x \$650 = \$1,690.00
	Kyle Plunkett (2011)	5.9 hrs. x \$255 = \$1,504.50	5.9 hrs. x \$382.50 = \$2,256.75	5.9 hrs. x \$425 = \$2,507.50
	Miranda Spence (2011)	10.4 hrs. x \$270 = \$2,808.00	10.4 hrs. x \$405 = \$4,212.00	10.4 hrs. x \$450 = \$4,680.00
	<u>Clerks:</u>			
	Patrick Williams	4.6 hrs. x \$80 = \$368.00	4.6 hrs. x \$125 = \$575.00	4.6 hrs. x \$180 = \$828.00
	Daniella Hodgson	35.4 hrs. x \$80 = \$2,832.00	35.4 hrs. x \$125 = \$4,425.00	35.4 hrs. x \$225 = \$7,965.00

* Specify the rate being charged to the client for each person identified in column 2. If there is a contingency fee arrangement, state the rate that would have been charged absent such arrangement.

* **any other matter relevant to the question of costs**

N/A

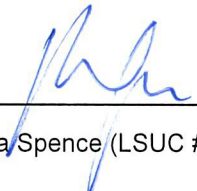
DISBURSEMENTS:

Disbursements	
Teranet Fee	\$139.69
13% HST on Taxable Disbursements	\$18.16
Non-Taxable: Garnishments	\$1,898.00
Non-Taxable: Writs	\$519.08
Total Disbursements & HST	\$2,574.93

LAWYER'S CERTIFICATE

I CERTIFY that the hours claimed have been spent, that the rates shown are correct and that each disbursement has been incurred as claimed.

Date: October 11, 2019



Miranda Spence (LSUC #60621M)

37193411.2

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Applicant

AND

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Respondents

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

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