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October 6, 2025

VIA CM/ECF

Honorable Christine M. Gravelle
United States Bankruptcy Court
for the District of New Jersey
Clarkson S. Fisher U.S. Courthouse
402 East State Street
Trenton, New Jersey 08608

Re: *In re CCA Construction, Inc.*, Case No. 24-22548-CMG (Bankr. D.N.J.)

Dear Judge Gravelle:

As you know, this firm represents CSCEC Holding Company, Inc. ("CSCEC Holding") in the above-captioned bankruptcy case of debtor CCA Construction, Inc. ("CCA" or the "Debtor"). CSCEC Holding and BML Properties, Ltd. ("BMLP") submit this joint letter to request the Court's assistance in resolving the parties' disputes regarding information that should be redacted from the public version of the report issued by a special committee of CCA's board of directors following its investigation into potential claims held by the Debtor's estate ("Committee Report").

The parties have met and conferred in connection with the *Debtor's Motion to File Under Seal the Report of the Special Committee of Independent Directors of CCA Construction, Inc.* [Dkt. 422] and have reached agreement regarding many redactions to be made in a version of the Committee Report to be filed publicly on the docket. However, certain disputes remain.

Attached hereto as **Exhibit A** is a version of the Committee Report reflecting the proposed redactions.¹ The orange highlighted text represents language that all parties (CCA, CSCEC Holding, and BMLP) have agreed to redact, while the blue highlighted text represents the language CSCEC Holding seeks to redact but BMLP believes should be public. In the alternative, BMLP also believes that, if the disputed redactions are not made public, BMLP should nonetheless be allowed to use that information in the judicial proceedings in the Bahamas, pursuant to the Confidentiality Stipulation and Protective Order [Dkt. 86] allowance of addition of Permitted Proceedings. CSCEC Holding disagrees that BMLP should be permitted to use its confidential information in the Bahamian proceedings.

¹ For purposes of this submission, Exhibit A omits the Appendices attached to the Committee Report because the parties do not have any disputes over the proposed redactions to the Appendices.



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Redaction Disputes:

For each of the below passages, the ~~striketrough~~ text reflects agreed-upon redactions. **Bold** text reflects additional information that CSCEC Holding proposes to redact, with which BMLP disagrees. The information that CSCEC Holding seeks to redact is either confidential information that CSCEC Holding provided the special committee during its investigation, or concerns CSCEC Holding or its subsidiaries.

1. Committee Report at 10:

In any case, certain of the breach of contract and accounts stated claims may not be viable because [REDACTED]

2. Committee Report at 40:

Some of the Non-Debtor Loans between CSCEC Holding and Plaza, and CSCEC Holding and [REDACTED], were documented by Intra-Group Loan Agreements that appear to be a [REDACTED]

[REDACTED] We did not receive intercompany loan agreements for all Non-Debtor Loans.

[REDACTED]

[REDACTED]

3. Committee Report at 45-46:

We also investigated the [REDACTED]
[REDACTED] for the period 2018-2023. Between 2018 and
2020, CSCEC Holding paid approximately [REDACTED] to CCA
employees that were allocated to [REDACTED]
[REDACTED]

4. Committee Report at 48-49:

[REDACTED]

5. Committee Report at 86:

The entity and balances that CCA may pursue are listed below:

[REDACTED]
[REDACTED]

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6. Committee Report at 87:

As detailed above, however, breach of contract and account stated claims

and

Breach of

contract and account stated claims against Unibuy for
may be viable

Breach of contract and account stated claims against CCASC and
Strategic Capital
respectively, are viable.

CSCEC Holding's Position:

The bolded language should be redacted because it discusses confidential commercial information that warrants protection under 11 U.S.C. § 107(b)(1), including (a) the corporate structure and business operations of CSCEC Holding and its subsidiaries; (b) the financial position of CSCEC Holding and its subsidiaries, gleaned from confidential books and records; and (c) the terms of agreements involving CSCEC Holding, its subsidiaries, CCA, and other entities, including confidential prices and interest rates. *See Mesabi Metallics Co. v. Cleveland-Cliffs, Inc. (In re Essar Steel Minn. LLC & ESML Holdings)*, No. 16-11626, 2025 WL 2551029, at *4 (Bankr. D. Del. Sep. 4, 2025) (explaining that confidential commercial information may include “pricing formulae, . . . terms of agreements . . . , information regarding the sale or retention of assets, internal strategic deliberations, and internal drafts that contain commercially sensitive information.”); *China Falcon Flying Ltd. v. Dassault Falcon Jet Corp.*, No. CV 15-6210, 2017 WL 3718108, at *3 (D.N.J. Aug. 29, 2017) (granting motion to seal confidential business agreements and sensitive pricing information); *HomeSource, Corp. v. Retailer Web Servs., LLC*, No. 1:18-CV-11970, 2024 WL 5245558, at *1–3 (D.N.J. Oct. 3, 2024) (granting motion to seal information concerning revenues, profits, investments, business operations, and corporate structure).

Such information, if revealed publicly, could have a “chilling effect on business negotiations,” *Bloomberg L.P. v. FTX Trading Ltd. (In re FTX Trading Ltd.)*, No. 22-11068, 2024

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WL 4948827, at *7 (D. Del. Dec. 3, 2024), and could “be used as a vehicle for improper purposes,” *Video Software Dealers Ass’n v. Orion Pictures Corp. (In re Orion Pictures Corp.)*, 21 F.3d 24, 27 (2d Cir. 1994).

BMLP has made clear that it intends to use this confidential information about CSCEC Holding and its subsidiaries in connection with its litigation in the Bahamas; it should not be permitted to do so. The information should be kept confidential given the “very real risk that otherwise confidential information that is required to be produced because it is relevant to the parties’ dispute before this Court might be misused in other proceedings.” *In re Essar Steel Minn.*, 2025 WL 2551029, at *5 (protective order limited the use of confidential information in other proceedings because “the use of otherwise confidential information to advance [the debtor’s] cause, to the detriment of Cliffs, in the wider range of business, legal, and commercial disputes between the parties is the kind of ‘unfair advantage’ that § 107(b)(1) is intended to guard against.”).

BMLP’s reliance on *Cipollone v. Liggett Group, Inc.*, 113 F.R.D. 86 (D.N.J. 1986) for the proposition that discovery should generally be allowed to be used in other collateral proceedings is unpersuasive given the significant factual differences between *Cipollone* and the issues here. That proposition in *Cipollone* was subject to two factors: “So long as the initial litigation has not itself been instituted in bad faith for the purpose of obtaining documents for other actions, and so long as the interests of those represented in the initial litigation are being fully and ethically prosecuted.” *Id.* at 91. Here, CSCEC Holding is not party to the proceeding in the Bahamas and therefore has no way of knowing whether its interests would be “fully and ethically prosecuted.” Moreover, the discovery in *Cipollone* related to “the knowledge of the defendant tobacco companies regarding the risks of cigarette smoking and what action was taken to conceal or minimize these risks and neutralize the required warnings,” which the court described as a matter of public interest and, importantly, **non-confidential**. *Id.* at 87. CSCEC Holding’s confidential business information is not comparable to the discovery at issue in *Cipollone* as it is confidential and serves no broad public interest. As such, it should not be disclosed in any litigation, let alone a litigation where CSCEC Holding is not a party and thus not entitled to appear to defend the disclosure of its own confidential business information. *See, e.g., In re Am. Bus. Fin. Servs., Inc.*, No. 05-10203, 2008 WL 3906894, at *4 (Bankr. D. Del. Aug. 20, 2008) (finding a party’s confidential business records entitled to protection and thus the “burden of showing good cause for the designation of the documents as confidential” was met); *In re Summit Glob. Logistics, Inc.*, 2009 WL 1025104, at *2 (Bankr. D.N.J. Mar. 23, 2009) (recognizing that, “[w]hile [the] Court agrees that *Cipollone* [sic] . . . allow[s] for use of discovery in other litigations in order to prevent duplicative efforts and to ‘speed[] up what may otherwise be a lengthy process,’ [the] Court recognizes that the situation here is a litigation pending in a foreign tribunal [where the party seeking to keep the ‘Highly Confidential’ designation on the documents it produced is not a party in the foreign litigation] rather than another venue in the United States”).

BMLP's Position:

The bolded language should not be kept under seal, but even if it were kept under seal, BMLP should be allowed to use it in litigation in the Bahamas. As to sealing, the information sought to be sealed is not confidential “commercial information” under the narrow statutory exception of 11 U.S.C. § 107(b)(1). The Third Circuit just recently explained that information should only be sealed where there is “a *substantial risk* that disclosure would detrimentally affect the producing party’s competitive standing.” *Mesabi Metallics Co. v. Cleveland-Cliffs, Inc. (In re ESML Holdings Inc.)*, 135 F.4th 80, 97 (3d Cir. 2025); *see also In re Orion Pictures Corp.*, 21 F.3d at 28 (noting that for purposes of section 107(b), commercial information includes “information which would cause ‘an unfair advantage to competitors by providing them information as to the commercial operations of the debtor.’” (quoting *Ad Hoc Protective Comm. for 10 1/2% Debenture Holders v. Itel Corp. (In re Itel Corp.)*, 17 B.R. 942, 944 (9th Cir. B.A.P. 1982))). A party seeking to seal records bears the burden of proving that risk by “demonstrate[ing] extraordinary circumstances and compelling need to obtain protection.” *In re Food Mgmt. Group, LLC*, 359 B.R. 543, 561 (Bankr. S.D.N.Y. 2007) (citing *In re Orion Pictures Corp.*, 21 F.3d at 270). Mere speculation or conjecture that documents might fall into a protected category is insufficient to warrant sealing. *In re Fibermark, Inc.*, 330 B.R. 480, 506 (Bankr. D. Vt. 2005).

Here, CSCEC Holding falls well short of showing that the disclosure of this high-level information about and financial condition would pose a “substantial risk” of harming its competitive standing within the purview of 107(b)(1). To the contrary, such information “may be private in the sense that it is not publically available, and [movant] would like to keep it so, [but movant] has failed to show that its disclosure in a public filing would place [movant] at a competitive disadvantage.” *See e.g., In re Dreier LLP*, 485 B.R. 821, 823 (Bankr. S.D.N.Y. 2013). None of the information in bold is “so critical” that disclosure would “unfairly benefit that entity’s competitors” and thus “be expected to cause the entity commercial injury,” and CSCEC Holding offers no concrete grounds to believe otherwise. *In re Alterra Healthcare Corp.*, 353 B.R. 66, 75 (Bankr. D. Del. 2006). Courts in the Third Circuit thus deny sealing even when information is much more granular than the high-level conclusions of the Special Committee at issue here. *See e.g., In re FTX Trading Ltd.*, 670 B.R. 734 (Bankr. D. Del. 2025) (denying Section 107(b) protection for large portions of service contracts because business assumptions, scope of services, and operational details either lacked a showing a competitive harm or had already been publicly disclosed). Accordingly, sealing of the bolded language should be denied. Indeed, it is not even clear that CCA International engages in any commercial activity with any third parties. Moreover, it is already public knowledge that the New York judgment lies against CCA International’s two primary subsidiaries, CCA Bahamas and CSCEC Bahamas.

Even if the Court were to grant the sealing of the bolded language, however, the Court should allow BMLP to use that information in Bahamian proceedings between BMLP and the Debtor’s affiliates CCA Bahamas and CSCEC Bahamas. The Confidentiality Stipulation and Protective Order [Dkt. 86] expressly permits BMLP to seek permission “from the Court to use Materials disclosed pursuant to this Order in connection with any proceeding in furtherance of

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enforcing, executing, or otherwise satisfying the Baha Mar Judgment and/or BMLP's creditor rights ('Permitted Proceedings')," as it is doing here. Among other proceedings in the Bahamas, the Debtor's affiliates are opposing BMLP's applications to wind-up CCA Bahamas and CSCEC Bahamas on the basis of their insolvency, and the information in the Special Committee's report, including the bolded language, will be relevant to those proceedings. This information should not be kept from judges of other courts, particularly in the Bahamas where BMLP can seek permission to limit public access to the information.

BMLP's use of discovery in the Bahamas should be allowed because discovery should generally be allowed to be used in other collateral proceedings, absent a showing of tangible prejudice to the other party. *See, e.g., Cipollone v. Liggett Grp., Inc.*, 113 F.R.D. 86, 91, 93 (D.N.J. 1986) (defendants must show "that substantial rights will be so tangibly prejudiced that injustice will result unless the discovery obtained in this litigation is limited to it," and mere fact that plaintiff "intend[s] to use these materials outside of this litigation is not 'good cause' to support the protective order" to restrict using discovery in other proceedings). While CSCEC Holdings is not a party to the Bahamian proceedings, its interests will be adequately represented by CCAB (a wholly owned subsidiary) and CSCECB (a sister affiliate, likewise wholly owned by CSCEC Ltd.). [Dkt. 11, Ex. A]. CSCEC Holdings' reliance on *Essar Steel* is misplaced because CSCEC Holding voluntarily provided this information to the Special Committee, so it cannot be the case that BMLP is "misus[ing]" "confidential information that [was] required to be produced." *In re Essar Steel Minn.*, 2025 WL 2551029, at *5.

CCA's Position:

CCA believes that CSCEC Holding has the right to seek confidentiality protections under 11 U.S.C. § 107(b)(1) for its own information that was provided to the special committee during its investigation.

Sincerely,



Michael A. Kaplan

cc: All counsel of record via CM/ECF

EXHIBIT A
Filed Under Seal