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**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

In re:

CCA Construction, Inc.,

Debtor.

(Hon. Christine M. Gravelle)

Chapter 11

Case No. 24-22548 (CMG)

**NOTICE OF FILING OF REDACTED REPORT OF
TODD HARRISON, COURT-APPOINTED EXAMINER**

PLEASE TAKE NOTICE that, on June 2, 2025, the Court entered the Order Approving Examiner's Scope and Budget for Investigation [Docket No. 351] (the "**Scope and Budget Order**").¹

PLEASE TAKE FURTHER NOTICE that, paragraphs 3 and 4 of the Scope and Budget Order, require, *inter alia*, that a copy of the report of the conclusions of the Authorized Investigation of Todd Harrison, as Court-appointed Examiner (the "**Examiner**") in the above-captioned bankruptcy of CCA Construction, Inc., shall initially be filed on the case docket under seal in its entirety without the need for a sealing motion.

PLEASE TAKE FURTHER NOTICE that, on September 15, 2025, the Examiner filed the *Report of Todd Harrison, as Examiner* (the "**Examiner Report**"), dated September 15, 2025,

¹ Capitalized terms used and not otherwise defined herein shall having the meaning ascribed to them in the Scope and Budget Order.



entirely under seal, pursuant to paragraphs 3 and 4 of the Scope and Budget Order and the procedures for filing a “Sealed Document” posted on the Court’s website.²

PLEASE TAKE FURTHER NOTICE that, the Parties have agreed to certain redactions necessary to protect confidential or highly confidential information contained in the Examiner Report. Pursuant to paragraph 4(b) of the Scope and Budget Order, the Examiner hereby files a redacted version of the Examiner Report reflecting the Parties’ agreed-upon redactions. A copy of the redacted Examiner Report is attached hereto as **Exhibit A**.

Dated: October 6, 2025
New York, New York

MCDERMOTT WILL & SCHULTE LLP

/s/ Deanna D. Boll

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² A notice regarding the filing of the sealed Examiner Report was filed at Docket No. 481.

EXHIBIT A

Redacted Examiner Report

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FOR THE DISTRICT OF NEW JERSEY**

In re:

CCA Construction, Inc.,

Debtor.

(Hon. Christine M. Gravelle)

Chapter 11

Case No. 24-22548 (CMG)

Report of Todd Harrison, as Examiner

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I. INTRODUCTION AND EXECUTIVE SUMMARY

This report is submitted by the Examiner, Todd Harrison (the “Examiner”), pursuant to the *Order Granting the Appointment of an Examiner* [Docket No. 211] (the “Examiner Order”), entered on March 5, 2025, by the Bankruptcy Court in the Chapter 11 Case of CCA Construction, Inc. (“CCA” or the “Debtor”), as well as the *Order Approving Examiner’s Scope and Budget for Investigation* entered on June 2, 2025, by the Bankruptcy Court [Docket No. 351] (the “Scope Order”).¹

The Examiner Order was entered following the *Motion of BML Properties, Ltd. for Entry of an Order Appointing an Examiner* [Docket No. 88] (the “Examiner Request Motion”). On March 5, 2025, the Bankruptcy Court entered the Examiner Order granting the Examiner Request Motion and directing the United States Trustee (the “U.S. Trustee”) to appoint an examiner following the earlier of (i) twenty-one days after the Supreme Court of the State of New York Appellate Division – First Department (the “Appellate Court”) affirmed the decision of the New York Court in the New York Action or upheld the New York Judgment (each as defined below); or (ii) June 1, 2025.

On April 10, 2025, the Debtor filed the *Notice of Decision by the Supreme Court of the State of New York, Appellate Division—First Department* [Docket No. 247].

On April 29, 2025, per the Examiner Order, the U.S. Trustee filed the *Notice of Appointment of Examiner* [Docket No. 280] and the *Application for Order Approving Appointment of Examiner* [Docket No. 281] seeking Bankruptcy Court approval of the appointment of Todd Harrison as the Examiner.

The Bankruptcy Court entered the *Order Approving the Appointment of a Chapter 11 Examiner by United States Trustee* [Docket No. 296], approving the appointment of Todd

¹ Capitalized terms used but not defined herein shall have the meanings ascribed to them in the *Report of the Special Committee of Independent Directors of CCA Construction, Inc.* dated July 31, 2025 (the “Report”). The Report was filed under seal and remains under seal as of the date of this filing. A redacted version of the Report was filed at Docket No. 421.

Harrison as the Examiner, on May 7, 2025, and scheduled a conference for May 22, 2025, to determine the scope and budget for the Examiner's investigation (the "Scope Hearing").

Shortly after his appointment, the Examiner and his counsel began reviewing materials related to the Debtor and its affiliates, this Chapter 11 Case and the facts and circumstances related to the New York Decision to understand the background facts and issues that would be relevant to his investigation. During this initial phase, the Examiner and his counsel also engaged in discussions with counsel for the Debtor and counsel to BML Properties, Ltd. ("BMLP") to understand their perspectives.

In advance of the Scope Hearing, the Examiner also prepared and filed the *Examiner's Statement Regarding Proposed Scope of Investigation*, describing his proposed scope [Docket No. 311]. The Debtor and BMLP also submitted briefing regarding the proposed scope and budget for the Examiner.²

Following the Scope Hearing and pursuant to the Scope Order, the Bankruptcy Court ordered that the "Examiner's Authorized Investigation shall be limited to an examination of the scope and process of the ongoing investigation (the "Special Committee Investigation") currently being undertaken by the special committee (the "Special Committee") of the Debtor's board of directors." Scope Order at ¶1.

In accordance with the Examiner Order and the Scope Order, the Examiner conducted his limited investigation to review and analyze the investigation already being conducted by Cole Schotz, P.C. ("Cole Schotz") at the direction of the Special Committee (consisting of Elizabeth Abrams as the sole member of the Special Committee).

After the scope of the Examiner's mandate was established at the Scope Hearing, the Examiner and/or his counsel performed the following tasks, among other activities, and as described in more detail below as well as in the Report:

² See *Debtor's Supplemental Brief in Connection with the Scope and Budget of the Authorized Investigation of the Examiner* [Docket No. 307]; *BML Properties, Ltd.'s Supplemental Brief in Support of the Appointment of Examiner* [Docket No. 309].

- Attended every interview to which the Examiner was invited following the Scope Hearing.³
- Engaged in multiple telephonic and videoconference calls with Cole Schotz as counsel performing the investigation for the Special Committee, in order to provide feedback and suggestions as their investigation developed.
- Reviewed documents provided by the Special Committee (including reviewing additional documents provided by the Special Committee after filing of the Report).
- Reviewed a draft of the Report provided by Cole Schotz prior to its completion, to which the Examiner provided feedback and comments that were largely addressed or otherwise incorporated into the final Report.

In short, following the Scope Hearing, the Examiner established a constructive working relationship with the Special Committee's counsel performing its investigation. The Examiner – to the extent possible and subject to the limitations described herein – observed and reviewed the processes, interviews, certain materials that the Special Committee relied upon in the Special Committee Investigation, a working draft of the Special Committee's report, as well as the ultimate work product of the Special Committee Investigation contained in the Report.

Following this process, the Special Committee ultimately issued its Report on July 31, 2025, which found a number of potentially colorable claims.

The findings of the Examiner's review are discussed in detail in this report and summarized below as follows:

- (1) the Special Committee's scope and processes appeared to be generally appropriate under the circumstances, based on what the Examiner was able to observe (recognizing, however, the significant information imbalance between the Examiner and the Special Committee – including but not limited to the Examiner's lack of insight into Cole Schotz's Investigation Work Plan, the withholding from production to the Examiner of the vast majority of documents reviewed by Cole Schotz, and other inherent structural limitations given the unique circumstances of the Examiner's role with respect to the Special Committee Investigation).

³ As detailed in the Report, the Special Committee conducted interviews prior to the Scope Hearing, to which the Examiner was not invited. The Special Committee also apparently conducted an interview on June 25, 2025, to which the Examiner was not invited, as the Special Committee indicates it "was limited to document collection" (Report at n. 15).

(2) although the Special Committee Investigation generally appeared to be thorough, there were some limitations and certain gaps in the analysis contained in the Report, as detailed herein.

(3) although it is beyond the Examiner's scope to specifically assess the Special Committee's findings, the conclusions in the Report generally appear to be made in good faith and reasonable under the circumstances (particularly in light of the significant number of potentially colorable claims outlined in the Report). The Examiner recognizes that other parties may have good faith concerns regarding the Special Committee Investigation or disagreements with the conclusions contained in the Report.

II. BACKGROUND

A. New York State Court Litigation

The Bankruptcy was filed following judicial findings—unanimously upheld on appeal—that the Debtor and two affiliated non-debtor entities, CSCEC Bahamas, Ltd. (“CSCECB”) and CCA Bahamas Ltd. (“CCAB”) (the “Bahamian Entities,” together with CCA, the “New York Defendants”), were found to be operated as one entity (after piercing of the corporate veil), and further found that the New York Defendants committed fraud, breach of contract, and misappropriation of assets in connection with a multi-billion dollar resort construction project in the Bahamas (the “Project”). This resulted in an approximate \$1.6 billion judgment against the New York Defendants and in favor of its counter-party, BMLP. *See BML Props. Ltd. v. China Constr. Am., Inc.*, Index No. 657550/2017 (Sup. Ct., NY County, Comm. Div.) (the “New York Action”).

On October 18, 2024, after an 11-day bench trial, the Supreme Court of the State of New York, New York County (the “New York Court”) issued its decision and order in the New York Action [Docket No. 54-1] (the “New York Decision”), finding, among other things, “clear and convincing evidence” that the Debtor, operating together with CSCECB and CCAB, “committed at least four instances of fraud” (*see* New York Decision at 1), including by:

- i. Misrepresenting its ability to achieve substantial completion of the Project by the agreed-upon date on several occasions, each of which “constitutes a separate act of fraud.” *Id.* ¶¶ 107, 109;
- ii. Requesting \$54 million from BMLP to pay subcontractors, but instead using the funds to buy a competing property. *Id.* ¶ 110;
- iii. “Misappropriat[ing]” and “diver[ting]” Project funds, including for the “personal use of its officers[,]” which is “indicative of a fraudulent course of dealing[.]” *Id.* ¶¶ 111-113; and
- iv. Concealing from BMLP that CCA had insufficient manpower and resources to complete the Project on time. *Id.* ¶ 117.

The Debtor and the Bahamian Entities were subsidiaries of parent company CSCEC Holding Company, Inc. (“CSCEC Holding”) (id. ¶ 167), whose ultimate parent entity is China State Construction Engineering Corp. Ltd (“CSCEC”). *See* Docket No. 11, Exhibit A (Organizational Structure).

The New York Decision states that the evidence at trial “firmly established” that the corporate veil should be pierced as against the Debtor and the Bahamian Entities who “conflated and blurred beyond independent recognition their purportedly separate corporate existences.” *See* New York Decision at 1 ¶ 169; *see also id.* ¶ 176 (finding that the Debtor and Bahamian Entities “operated as a single economic entity[,]” “commingled assets[,]” “paid or guaranteed obligations of one another[,]” “were not treated as separate profit centers[,]” and “did not deal with one another at arm’s length”).

On October 31, 2024, the New York Court entered judgment of \$1,642,598,493.15, plus interest, jointly and severally against the New York Defendants [Docket No. 88-2] (the “New York Judgment”). The next day, November 1, 2024, the New York Defendants filed an appeal of the New York Judgment with the Appellate Court. *See* Docket No. 14 ¶ 3 (Debtor’s description of procedural history for its appeal).

On April 8, 2025, the Appellate Court issued an opinion unanimously affirming the decision and judgment in the New York Action [Docket No. 247] (the “New York Appellate Decision”). Among other rulings, the Appellate Court determined that the “evidence in the record, which was largely un rebutted, shows that CCA Construction exercised complete domination of CCA Bahamas and CSCEC Bahamas, and that the domination was used to

breach the investor agreement, defraud plaintiff, and cause the collapse of . . . [the Project], resulting in plaintiff's injury." New York Appellate Decision at 4.

The Examiner understands the Debtor continues to challenge these findings and is further appealing the ruling of the Appellate Court in the New York Action. On May 5, 2025, the Bankruptcy Court granted CCA's motion to join its co-defendants to file a motion for leave to appeal with the New York State Court of Appeals [Docket No. 293]. CCA notes it "expects to learn this fall whether the New York State Court of Appeals will hear CCA's appeal." [Docket No. 449 at ¶ 22].

B. Chapter 11 Filing

On the Petition Date of December 22, 2024, the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of New Jersey (the "Bankruptcy Court"), commencing the Chapter 11 Case. The Debtor continues to operate and manage its business as a debtor in possession. No committee of unsecured creditors has been appointed, or is anticipated to be appointed, in the Chapter 11 Case. A Chapter 11 plan has not yet been filed.

On January 23, 2025, BMLP filed the Examiner Request Motion.

C. The Special Committee

According to the Report, on October 21, 2024 – the first business day after the trial court issued the New York Decision – the Stockholder of CCA (CSCEC Holding) held a special meeting during which it determined to appoint Ms. Abrams as an independent director of the Board.⁴ The Report notes, "Pursuant to a Written Consent of the Sole Stockholder of CCA Construction, Inc. dated November 2, 2024, CSCEC Holding, as CCA's sole shareholder, created the Special Committee, of which Ms. Abrams is the sole member."⁵

At the hearing on February 13, 2025, the Bankruptcy Court found that the Special Committee is independent and was reasonably appointed. *See* Feb. 13, 2025, Hr'g. Tr. 213:01-

⁴ Report at 13.

⁵ *Id.*

7 (“I think I can find from what I’ve heard today that the appointment of Ms. Abrams was a reasonable appointment and that that doesn’t need to be examined. That she, she has been effectively and fairly appointed as an independent [director.]”). *See also* May 22, 2025, Hr’g. Tr. 63:8-16. Accordingly, the circumstances surrounding Ms. Abrams’s appointment and her independence was not a focus of the Examiner’s investigation.

D. The Special Committee Investigation

Following the appointment of Ms. Abrams, the Special Committee was charged with, among other tasks, reviewing and evaluating the terms and conditions, and determining the advisability, of potential restructuring alternatives.⁶

On or about March 13, 2025, the Special Committee authorized Cole Schotz to conduct an investigation on behalf of the Special Committee (the “Special Committee Investigation”).⁷

On April 17, 2025, the Debtor filed an *Application for Retention of Professional Effective April 9, 2025* [Docket No. 255] (the “Duane Morris Retention Application”) seeking to retain Duane Morris LLP (“Duane Morris”) as counsel to the Special Committee. The scope of retention included “investigation of potential claims or causes of action of the Debtor, if any, against third parties and related matters in the . . . [Bankruptcy] as the representation proceeds, at the direction of and with the approval of the Special Committee[.]” Docket No. 255 ¶ 4.

On April 24, 2025, BMLP filed a limited objection to the Duane Morris Retention Application [Docket No. 273]. CCA then filed a limited response to BMLP’s limited objection on May 5, 2025 [Docket No. 291].

On May 5, 2025, the Bankruptcy Court held a pre-scheduled hearing (the “May 5 Hearing”). The U.S. Trustee, the Debtor, and BMLP participated in the hearing. Although a hearing on the retention of Duane Morris was scheduled for May 22, 2025, the parties nevertheless engaged in a limited discussion of the Duane Morris retention at the May 5 Hearing. Specifically, at the May 5 Hearing, counsel for CCA informed the Bankruptcy Court

⁶ *Id.* at 12.

⁷ *Id.* at 14.

that “the Special Committee is pursuing an investigation of potential estate claims that has already commenced.” Tr. at 13:5-7. Counsel for BMLP informed the Court that they only “learned last week” that Ms. Abrams, the sole member of CCA’s Special Committee, had “started her own examination, investigation.” *Id.* at 17:20-25. Counsel for BMLP revealed, and counsel for CCA did not refute, that Debtor’s co-counsel Cole Schotz—and not Duane Morris—was conducting the investigation and had been doing so “for months already.” *Id.* at 17:24-18:1.

On May 28, 2025, the Bankruptcy Court entered an order authorizing the Special Committee’s retention of Duane Morris LLP (“Duane Morris”) as counsel to the Special Committee *nunc pro tunc* to April 9, 2025 [Docket No. 343] with respect to, among other things, oversight of the Special Committee Investigation being performed by Cole Schotz.

E. The Examiner’s Investigation

The Scope Order entered by the Court on June 2, 2025, provides the scope of the Examiner’s investigation as follows:

[A]n examination of the scope and process of the ongoing investigation (the “Special Committee Investigation”) currently being undertaken by the special committee (the “Special Committee”) of the Debtor’s board of directors. During the Special Committee Investigation, the Examiner may provide (a) recommendations to the Special Committee and its advisors regarding: (i) the process, (ii) methodology, and (iii) breadth of the Special Committee Investigation, and/or (b) input or feedback to the Special Committee and its advisors regarding (i) potential topics of the Special Committee Investigation and (ii) potential claims to consider.

Scope Order ¶ 1.

Upon being appointed, the Examiner and his counsel reviewed voluminous background materials related to the New York Decision, the Chapter 11 Case, and the Debtor and its affiliates more broadly in preparation for the Scope Hearing. The Examiner and his counsel also met with counsel for the Debtor and counsel to BMLP telephonically and via videoconference multiple times prior to the Scope Hearing to obtain their perspectives.

The parties also discussed terms for sharing information. Following those conversations, and subject to an agreement among the parties concerning the Scope Order as set out below, the Examiner executed an acknowledgment and consent to the existing *Confidentiality Stipulation and Protective Order* [Docket No. 86] (the “Protective Order”).

Prior to the Scope Hearing, the Examiner received and reviewed limited informal productions of documents from counsel to the Debtor on May 5 and May 15, 2025, and from counsel to BMLP on May 6 and May 7, 2025.

Following the Scope Hearing (at which the Examiner’s limited scope was established), the Examiner or his counsel attended every interview to which they were invited. The Examiner understands that Cole Schotz conducted several critical interviews prior to the Scope Hearing, to which the Examiner and his counsel were not invited, and for which Cole Schotz provided the Examiner with interview notes prepared by Cole Schotz (but no transcripts).

The interviews that were conducted prior to the Scope Hearing (and thus the Examiner did not attend) included:⁸

- May 14, 2025 interview of [REDACTED]
- May 15, 2025 interview of [REDACTED]
- May 16, 2025 interview of [REDACTED]
- May 19, 2025 interview of [REDACTED]
- May 20, 2025 and May 21, 2025 interview of [REDACTED]
- May 21, 2025 interview of [REDACTED]

The interviews which the Examiner or his counsel attended included:

⁸ *Id.* at 19.

- May 28, 2025 interview of [REDACTED]
- June 3, 2025 interview of [REDACTED]
- June 5, 2025 interview of [REDACTED]
- June 6, 2025 interview of [REDACTED]
[REDACTED]
- June 18 and 26, 2025 interviews of [REDACTED] from CBIZ, CPAs P.C.
(CCA's auditor)
- July 10, 2025 interview of [REDACTED]
[REDACTED]
- July 15, 2025 follow-up interview of [REDACTED]
[REDACTED]

The Examiner and his counsel also engaged in numerous telephonic and video conferences with Cole Schotz throughout the process.

On July 25, 2025, the Examiner received from Cole Schotz its working draft of the Report. On July 28, 2025, the Examiner provided feedback on such draft, which Cole Schotz largely incorporated or otherwise addressed prior to filing the Report on July 31, 2025.

The Examiner or his counsel also reviewed the documents provided by Cole Schotz, including additional documents provided on August 12, 2025 and August 28, 2025 (*i.e.*, after filing of the Report). Notably, however, Cole Schotz did not provide to the Examiner any documents that it determined were subject to the attorney-client privilege and/or attorney work product doctrine, and accordingly the Examiner only received a small subset of the documents apparently reviewed by the Special Committee in connection with the Special Committee Investigation. And despite the Examiner asking for a privilege log of documents withheld from production, the Special Committee never provided one to the Examiner.

III. ANALYSIS OF SPECIAL COMMITTEE INVESTIGATION AND REPORT

As discussed herein, the Special Committee's investigative process appeared to be generally thorough based on the information and details available to the Examiner. That being

said, there were inherently some areas of concern and the Report reflects some limitations and deficiencies.

A. The Special Committee's Report

The Report analyzes the following topics:⁹

1. **Recharacterization** of loans from CSCEC Holding to CCA to fund the Debtor's Shared Services Program as equity. The successful prosecution of recharacterization claims would subordinate CSCEC Holding's purported insider unsecured debt to the claims of unsecured creditors.
2. **Equitable subordination** of the loans from CSCEC Holding to CCA to the claims of unsecured creditors.
3. **Piercing the corporate veil** between CSCEC Holding and the Debtor to impose alter ego liability on CSCEC Holding. A successful claim to pierce the corporate veil would allow the estate to impose liability on CSCEC Holding for the Debtor's obligations.
4. **Avoidance of constructively fraudulent and preferential transfers** made by the Debtor, including transfers made to CSCEC Holding, as constructive fraudulent and/or preferential transfers, and those made in connection with CCA's Shared Service Agreements. Successful constructive fraudulent and preferential transfer claims would allow the Debtor's estate to recover the value of the avoided transfer(s) for the benefit of creditors.
5. **Breach of fiduciary duty** by the Debtor's directors and/or officers, including with respect to the Shared Services Agreements between the Debtor and its subsidiaries and payment of executive compensation. Successful breach of fiduciary duty claims would allow the estate to recover the amount of any damages caused by such breaches.
6. **Breach of contract or book account claims** against the Shared Services Members to recover amounts paid by the Debtor on their behalf and allocated to the Shared Services Members.
7. **Substantive consolidation** of the Debtor with CSCEC Holding. A successful claim for substantive consolidation would bring CSCEC Holding into the Debtor's bankruptcy case and pool the assets and liabilities of both the Debtor and CSCEC Holding for the benefit of their combined creditors.

Notably, on May 17, 2025, Cole Schotz invited counsel to BMLP to suggest topics to be investigated.¹⁰ Counsel to BMLP responded with a letter dated June 5, 2025, identifying certain issues and topics for investigation.¹¹ The Examiner largely agreed with the

⁹ *Id.* at 1-2.

¹⁰ *See* Report at n. 9.

¹¹ *Id.* A copy of counsel to BMLP's June 5 letter is appended to the Report as Appendix S.

recommendations in BMLP's June 5 letter, as the Examiner agreed that the Special Committee should investigate the full breadth of potential claims.

The Report states that Cole Schotz carefully considered each of the topics BMLP suggested in BMLP's June 5 letter and addressed the "vast majority" of them in the Report.¹² Cole Schotz also provided BMLP with the Special Committee's position with respect to BMLP's suggestions in a letter dated July 31, 2025 (*i.e.*, the same day the Report was filed).¹³ Following the filing of the Report, counsel to BMLP also sent the Examiner a letter dated August 6, 2025, suggesting several issues BMLP has with the Report that merited further attention. The Examiner carefully considered such issues in connection with preparation of this report.

The Report finds the following claims are, or may be, colorable:¹⁴

- Recharacterizing as equity infusions the loans from CSCEC Holding to CCA (the "Holding Loans") in the amount of approximately \$125 million as of the Petition Date (Report at 2-3).
- Equitable subordination of the Holding Loans (Report at 3-4).
- Piercing the corporate veil between CSCEC Holding and the Debtor to impose alter ego liability on CSCEC Holding (Report at 4-6).
- Constructive fraudulent transfer claims against CSCEC Holding to avoid and recover transfers of approximately \$ [REDACTED] during the four-year lookback period prior to the Petition Date (Report at 6-7).¹⁵

¹² *Id.*

¹³ A copy of such letter is appended to the Report as Appendix T.

¹⁴ The Report notes, "A claim is colorable unless it is frivolous or so lacking in merit that it is impossible for the plaintiff to succeed. *Trilogy Portfolio Co., LLC v. Brookfield Real Est. Fin. Partners, LLC*, 2012 WL 120201 at *5 (Del. Ch. Jan. 13, 2012); *CBS Corp. v. Nat'l Amusements, Inc.*, 2018 WL 2263385, at *3 (Del. Ch. May 17, 2018)." Report at n. 5.

¹⁵ As detailed in the Report, the validity of such claim depends on whether the payments from CCA are deemed to be repayments of debt or dividends (if viewed as payments of dividends, CCA did not receive reasonably equivalent value and could recover; if viewed

- Director and officer breaches of fiduciary duties for failure to ensure timely delivery of audit reports for non-debtor subsidiaries (Report at 9-10).
- Claims against the Shared Services Members for breach of contract and accounts stated under New Jersey law for failure to repay amounts owed for shared services rendered by CCA (Report at 10).

The Special Committee found the following potential claims not to be colorable:

- Avoidance of the March 2021 assignment of the Shared Services Agreements from CSCEC Holding to Debtor (Report at 6).
- Recovery of executive compensation and other payments made to the D&Os (or any breach of fiduciary duties related thereto) (Report at 6-8).
- Constructive fraudulent transfer claims against the Shared Services Members (Report at 6-7).
- Avoidance and recovery of preferential transfers under section 547(b) of the Bankruptcy Code (Report at 7-8).
- With respect to the wire fraud that resulted [REDACTED] (Report at 10).¹⁶
- Substantive consolidation of the Debtor with CSCEC Holding (Report at 10-11).

B. Limitations on the Examiner

As an initial matter, it should be noted that the Examiner was not tasked with assessing the Special Committee's findings or conclusions but was limited to reviewing the Special Committee's "scope and process." Scope Order at 1.

Although the Report appears quite thorough and detailed, and the Examiner and his counsel developed a constructive working relationship with the Special Committee's

as debt, then the payment from CCA was for reasonably equivalent value in reducing the amount owed to CSCEC Holding).

¹⁶ The Examiner received an anonymous letter dated June 4, 2025, alerting the Examiner [REDACTED]

[REDACTED] The Examiner sent a copy of the letter to Cole Schotz.

professionals, the Examiner's evaluation of the Special Committee Investigation was inherently limited to (i) the information contained in the Report, (ii) the limited interview notes provided for interviews conducted prior to the Scope Hearing, (iii) information gleaned from the interviews attended by the Examiner, and (iv) other information and materials that Cole Schotz did provide to the Examiner, which included a small subset of the universe of documents and materials apparently reviewed by Cole Schotz.¹⁷

In other words, the Examiner and his counsel only were able to review what Cole Schotz agreed to provide, as the Examiner did not have independent discovery rights or subpoena power.

Accordingly, some less than ideal aspects of the investigation included:

- i. Use of Debtor's Counsel to Perform Investigation. Given that the Special Committee's decision to utilize Debtor's counsel to perform the investigation was previously raised in front of the Bankruptcy Court, the Examiner does not revisit that decision herein, other than to note the potential argument that such decision could inevitably color the investigation. The Examiner is satisfied, however, that given the apparent thoroughness and breadth of the Special Committee's investigation (particularly given the number of potentially colorable claims outlined in the Report), this concern is ameliorated to some extent. Nevertheless, the Examiner believes the Debtor should have been more transparent about the process sooner rather than conducting an investigation utilizing Debtor's counsel that was underway for weeks or months prior to it being disclosed to the Bankruptcy Court, BMLP or anyone else, which contributed to the information deficit in the Examiner's investigation.
- ii. Use of Debtor's Financial Advisor. A similar concern regarding the lack of independence of professionals performing the Special Committee Investigation could

¹⁷ The Examiner received a production from Cole Schotz on June 24, 2025, consisting of 274 documents, a production from Cole Schotz on August 12, 2025, consisting of 395 documents, and a production from Cole Schotz on August 28, 2025, consisting of 18 documents. This compares to Cole Schotz reviewing approximately 53,328 documents. Report at 18.

also be raised regarding the use of BDO to perform the financial analyses and valuations reflected in the Report and its appendices, rather than a truly independent third-party valuation expert. Given BDO's extensive history and familiarity with the Debtor and its affiliates, however, the Examiner believes that such decision was reasonable under the circumstances, particularly given the timeline and budgetary considerations. Further, given the Examiner's limited scope and budget, he did not engage his own financial advisor, as he would likely have done had he been tasked with conducting his own thorough investigation rather than simply overseeing the scope and process of the Special Committee Investigation.

- iii. Interviews. The Examiner was not invited to attend interviews until after the Scope Hearing. For those interviews conducted prior to the Scope Hearing, there were no transcripts, and the Examiner was only provided interview notes prepared by Cole Schotz. Further, for the interviews that the Examiner or his counsel attended, it was sometimes difficult to ascertain the thoroughness of the questioning; for example, Cole Schotz would ask questions on what appeared to be relevant topics, but was not able to push hard or follow-up if the witness did not recall, and the Examiner did not have all the underlying documents relied upon by the Special Committee to fully understand the information to which the questions were aimed.
- iv. Limited Production. Cole Schotz withheld sharing with the Examiner any documents it determined were subject to the attorney-client and/or work product privilege. As such, the Examiner and his counsel were only able to review a small fraction of the universe of documents and materials reviewed by the Special Committee and Cole Schotz, with the details of the document collection process being somewhat unclear. Further, no privilege log was provided, despite the Examiner asking for one. Cole Schotz also declined to provide the Examiner with the search terms used to gather documents, as Cole Schotz viewed the search terms as constituting work product. There was also no

disclosure of custodians' names or positions or other details regarding the document collection process.

- v. Special Committee Investigation Work Plan. The Examiner was not provided with communications between the Special Committee and Cole Schotz concerning the Special Committee Investigation, including any instructions given or any recommendations made by Cole Schotz to the Special Committee that would have allowed for a more complete assessment of the Special Committee Investigation. Similarly, despite asking for it, the Examiner was not provided with a copy of any work plan prepared in connection with the Special Committee Investigation, other than being generally referred by Cole Schotz to the details concerning the Investigation Work Plan in the filed Report. Accordingly, although Cole Schotz told the Examiner the scope of its investigation was extremely broad, it was difficult to assess that with any level of specificity, including because Cole Schotz also told the Examiner that the Investigation Work Plan was provided verbally to Ms. Abrams during a Special Committee meeting. Following submission of the Report, Cole Schotz provided the Examiner with copies of Special Committee meeting minutes; however, such minutes do not go into detail regarding specific topics to be investigated but rather generally refer to an investigation plan being presented to Ms. Abrams.

C. Limitations in Special Committee's Report

The Examiner's scope did not include performing a separate or comprehensive analysis and assessment of potential claims or causes of action, nor did it contemplate a factual investigation beyond the Special Committee's process and Report. Thus, this report is limited to identifying gaps or inconsistencies in the Special Committee's analysis and the reasonableness of the Report's conclusions.

Certain potential limitations with the Report identified by the Examiner include:

- i. Direct Claims. The Special Committee admits in the Report that it did not analyze any direct claims individual creditors may possess.¹⁸ The Examiner believes this was a reasonable determination under the circumstances, with the Special Committee focusing on potential claims held by the Debtor's estate. The Examiner recognizes, however, that certain creditors, including BMLP, may hold direct claims against the Debtor and/or its affiliates, and it was beyond the scope of the Examiner's investigation to reach conclusions about the validity of any such claims.
- ii. Relevant Period. The Special Committee notes that it considered the applicable statutes of limitations and "look back" periods for the potential claims analyzed, with Cole Schotz explaining in a letter response to BMLP, "we examined activities based on the relevant look-back periods, which for the most part, were four years based on the nature of the claims investigated. For a subset of claims, longer look-back periods were examined."¹⁹ The Special Committee thus "focused collection on the December 22, 2020 through December 22, 2024 time frame."²⁰

The Examiner believes the Special Committee's focus on the "Relevant Period" (as defined in the Report) generally was a reasonable determination given the timeframe and scope of the Special Committee Investigation, but recognizes it may raise some potential issues. First, it is not clear the extent to which collected documents predated December 2020 and whether that impacts the analyses of potential claims (for example, pre-2020 documents could be probative for any claims with tolling or discovery rule implications). Further, the Report generally does not revisit the facts and legal issues with respect to the New York Action (which was filed in 2017 and thus centered on actions prior to such timeframe). In addition, the Report notes that "constructive

¹⁸ Report at n. 2.

¹⁹ Report, Appendix T at 2.

²⁰ Report at 18.

fraudulent transfer claims have a four-year ‘look back period’ under applicable state and federal law.”²¹ The Report further explains that with respect to such potential fraudulent transfer claims, the Special Committee “considered whether the Debtor could adopt the longer lookback period that may be available to governmental entities...” but ultimately concluded there was not a basis to do so – although the Internal Revenue Service did file a proof of claim in the Bankruptcy Case in the total amount of \$10,162.52, the Special Committee believes “the IRS is not likely to hold an allowable claim against the Debtor.”²² The Examiner notes, however, that bankruptcy courts within the Third Circuit have generally adopted a permissive view of what constitutes an “allowable” claim that would permit a governmental entity to serve as a “triggering creditor” providing a longer lookback period. *See e.g., Finkel v. Polichuk (In re Polichuk)*, 506 B.R. 405, 419–20 (Bankr. E.D. Pa. 2014) (holding that a trustee may rely on the IRS as a triggering creditor under § 544(b) even without a filed proof of claim, and rejecting the argument that this constitutes an impermissible delegation of taxing power); *In re G-I Holdings, Inc.*, 313 B.R. 612, 635–36 (Bankr. D.N.J. 2004) (permitting a creditors’ committee to invoke the New Jersey Department of Environmental Protection’s 10-year lookback period under § 544(b) despite no filed claim, where the agency held a potential allowable unsecured claim).

- iii. Solvency Analysis. The Special Committee did not conduct a full solvency analysis of either CCA, its subsidiaries, or affiliates. The Report notes, “A full solvency analysis, which typically includes an assessment of fair market value of each line item, was not performed because such an analysis would have been prohibitively expensive and time-consuming under the circumstances.”²³ Instead, the Special Committee performed “a

²¹ *Id.*

²² *Id.* at 21.

²³ *Id.* at 47.

high-level solvency analysis of the Debtor and its subsidiaries and affiliates,”²⁴ and utilized a combination of the Balance Sheet test, the Cash Flow test, and the Reasonable Capital test. The Report explains that CCA’s financial health as of FYE 2021, FYE 2022 and FYE 2023 was analyzed using the Balance Sheet test and the Reasonable Capital test.²⁵ The solvency assessment conducted for the Non-Debtor Subsidiaries (Plaza, Civil, and CCASC) as of March 31, 2025, used all three solvency tests.²⁶ The solvency assessment for the Non-Debtor Affiliates (CCA International, SRE, and Unibuy) as of March 31, 2025, used the Balance Sheet test and the Reasonable Capital test.²⁷ And again, the solvency analysis performed was done by BDO, not an independent valuation expert. Although a full solvency analysis conducted by an independent valuation expert would have been ideal, the Examiner believes the Special Committee’s decision was reasonable under the circumstances, including because it does not appear that the Special Committee is suggesting lack of insolvency as a defense to any potential claim.

- iv. Alter Ego Claims. The Report concludes there are colorable veil-piercing claims against CSCEC Holding but does not analyze veil-piercing claims against CSCEC Ltd. or other affiliates. The Special Committee should have provided more detail on its analysis that no such claims exist with respect to CSCEC Ltd. or other affiliates (as well as further explanation of why enforcement of a judgment against CSCEC Ltd. would be difficult). This is particularly true given that the approved scope of the Special Committee Investigation included, “[p]otential claims and causes of action relating to the historical relationship, including any conflicts of interest, misconduct, or

²⁴ Report, Appendix T at 3.

²⁵ Report at 47.

²⁶ *Id.*

²⁷ *Id.* at 47-48.

mismanagement, between CCA, [CSCEC Ltd.], CSCEC Holding, CCA's non-Debtor operating subsidiaries . . . and CCA's non-Debtor affiliates.”²⁸

- v. Interviews. Although the Special Committee interviewed at least 10 people (some of whom were interviewed multiple times),²⁹ it would have been beneficial for the Special Committee to interview someone from CSCEC Ltd. or other individuals that hold positions at both CCA and CSCEC Holding. Such individuals could have provided the Special Committee with additional insight with respect to questions about corporate control and the decision-making process, particularly with respect to the parent's involvement in the subsidiaries' corporate decisions and the nature of their interactions. For example, the Special Committee could have interviewed (but apparently did not) individuals such as:

- [REDACTED]
- [REDACTED]
- [REDACTED]

The Report failed to explain why these (or similar) individuals were not interviewed and if there were any potential interviewees who declined or refused to be interviewed by the Special Committee.

- vi. Audits. With respect to audits, the Report concludes that “we believe there is a colorable claim for breach of fiduciary duty concerning the failure to pursue completion of audit reports on behalf of Shared Services Members.”³⁰ With respect to CCA itself, the Examiner understands that no audit has been completed since 2021.³¹ The Examiner asked Cole Schotz if this could lead to any potential claims, but such topic is not

²⁸ *Id.* at 14-15.

²⁹ *Id.* at 19-20.

³⁰ *Id.* at 9-10.

³¹ *Id.* at 33.

addressed in the Report (Cole Schotz did relay to the Examiner that it did not conclude there was any claim relating to delayed audits for CCA itself, given it did not find any requirement or obligation to prepare any audit of CCA after 2021). The Special Committee could have potentially probed further into the circumstances relating to the delayed audits (and the changes in auditors)³² to assess whether that was indicative of issues with respect to CCA's finances.

- vii. Expense Reimbursement. With respect to the reimbursement of expenses, although the Report states that the amounts at issue are too small to justify pursuing any potential claims,³³ it appears that certain receipts were not provided to BDO or went unexplained,³⁴ so it is difficult to understand whether or not they were for legitimate business expenses.

IV. CONCLUSION

As described in more detail above, based on the Examiner's investigation, the Examiner concludes that:

- (1) the Special Committee's scope and processes appeared to be generally appropriate under the circumstances, based on what the Examiner was able to observe (recognizing, however, the significant information imbalance between the Examiner and the Special Committee – including but not limited to the Examiner's lack of insight into Cole Schotz's Investigation Work Plan, the withholding from production to the Examiner of the vast majority of documents reviewed by Cole Schotz, and other inherent structural limitations given the unique circumstances of the Examiner's role with respect to the Special Committee Investigation).

³² *Id.* at 44.

³³ *Id.* at 6.

³⁴ *See, e.g.*, Report Appendix H at 7.

- (2) although the Special Committee Investigation generally appeared to be thorough, there were some limitations and certain gaps in the analysis contained in the Report, as described herein.
- (3) although it is beyond the Examiner's scope to specifically assess the Special Committee's findings, the conclusions in the Report generally appear to be made in good faith and reasonable under the circumstances (particularly in light of the significant number of potentially colorable claims outlined in the Report). The Examiner recognizes that other parties may have good faith concerns regarding the Special Committee Investigation or disagreements with the conclusions contained in the Report.

Dated: September 15, 2025

Respectfully Submitted,

/s/ Todd Harrison, as Court-appointed Examiner

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

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Debtor.

Case No.: 24-22548

Chapter: 11

Adv. No.: N/A

Hearing Date: N/A

Judge: Christine M. Gravelle

CERTIFICATION OF SERVICE

1. I, Deanna D. Boll :

☒ represent Todd Harrison, Examiner in this matter.

☐ am the secretary/paralegal for _____, who represents
_____ in this matter.

☐ am the _____ in this case and am representing myself.

2. On October 6, 2025, I sent a copy of the following pleadings and/or documents
to the parties listed in the chart below.

Notice of Filing of Redacted Report of Todd Harrison, Court-Appointed Examiner

3. I certify under penalty of perjury that the above documents were sent using the mode of service
indicated.

Date: 10/6/2025

/s/ Deanna D. Boll
Signature

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Certificate of Service ^{Master Service List} Page 3 of 3

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Debtor	CCA Construction, Inc.		445 South Street, Suite 310			Morristown	NJ	07960
IRS	Internal Revenue Service	Centralized Insolvency Operation	PO Box 7346			Philadelphia	PA	19101-7346
IRS	Internal Revenue Service	Centralized Insolvency Operation	2970 Market St			Philadelphia	PA	19104
New Jersey Attorney General Office	New Jersey Attorney General Office	Division of Law	Richard J. Hughes Justice Complex	25 Market St	PO Box 112	Trenton	NJ	08625-0112
New Jersey Division of Taxation	New Jersey Division of Taxation	Compliance and Enforcement - Bankruptcy Unit	3 John Fitch Way, 5th Fl	PO Box 245		Trenton	NJ	08695-0245
Top 20 Creditor	Quench USA, Inc.		630 Allendale Road, Suite 200			King of Prussia	PA	19406
Top 20 Creditor	Thomas Reuters	Alyssa Risch	PO Box 6292			Carol Stream	IL	60197
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