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

In re:

CCA Construction, Inc.,¹

Debtor.

Chapter 11

Case No. 24-22548 (CMG)

**DEBTOR'S MOTION TO FILE UNDER SEAL CERTAIN EXHIBITS FOR
HEARING SCHEDULED FOR FEBRUARY 13, 2025 AT 10:00 A.M. (ET)**

The above-captioned debtor and debtor in possession (the “**Debtor**”) respectfully states the following in support of this motion (this “**Motion**”):

¹ The last four digits of CCA’s federal tax identification number are 4862. CCA’s service address for the purposes of this chapter 11 case is 445 South Street, Suite 310, Morristown, NJ 07960.



Relief Requested

1. The Debtor seeks entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Order**”), (i) authorizing the Debtor to file certain exhibits (collectively, the “**Exhibits**”) in connection with the *Debtor’s Witness and Exhibits List for Hearing Scheduled for February 13, 2025 at 10:00 A.M. (ET)* (the “**Witness and Exhibits List**”) each under seal, (ii) directing that the Exhibits remain under seal and confidential and not be made available to anyone, except for (a) the Court, (b) the U.S. Trustee, and (c) the parties authorized to view Confidential Information pursuant to Paragraph A of the Protective Order (defined below), until such time that a hearing can be held, and (iii) granting related relief.

Jurisdiction and Venue

2. The United States Bankruptcy Court for the District of New Jersey (the “**Court**”) has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Standing Order of Reference to the Bankruptcy Court Under Title 11*, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.). The Debtor confirms its consent to the Court entering a final order in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution.

3. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The bases for the relief requested herein are sections 105(a) and 107(b) of title 11 of the United States Code (the “**Bankruptcy Code**”), Rule 9018 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 9013-1 and 9018-1 of the Local Bankruptcy Rules for the District of New Jersey (the “**Local Rules**”).

Background

5. On December 22, 2024 (the “**Petition Date**”), the Debtor filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

6. On January 22, 2025, the Court entered the *Confidentiality Stipulation and Protective Order* [Docket No. 86] (the “**Protective Order**”), which governs the production of confidential information in this case.

7. Contemporaneously herewith, the Debtor filed the Witness and Exhibits List, which includes certain Exhibits that contain Confidential Information as defined in the Protective Order.

Basis for Relief

8. Section 107(b) of the Bankruptcy Code provides bankruptcy courts with authority to issue orders that will protect entities from potential harm that may result from the disclosure of certain confidential information. This section provides, in relevant part:

(b) On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court’s own motion, the bankruptcy court may:

(1) protect an entity with respect to a trade secret or confidential research, development, or commercial information; or

(2) protect a person with respect to a scandalous or defamatory matter contained in a paper filed in a case under this title.

11 U.S.C. § 107(b).

9. In addition, under Bankruptcy Code section 105(a), the Court may “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions” of the Bankruptcy Code. 11 U.S.C. § 105(a).

10. Bankruptcy Rule 9018 defines the procedures by which a party may move for relief under section 107 of the Bankruptcy Code. Specifically, Bankruptcy Rule 9018 provides, in relevant part, that, upon motion, “the court may make any order which justice requires . . . to

protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information . . .” Fed. R. Bankr. P. 9018.

11. If the material sought to be protected satisfies one of the categories identified in section 107(b) of the Bankruptcy Code, “the court is *required* to protect a requesting interested party and has no discretion to deny the application.” *Video Software Dealers Ass’n v. Orion Pictures Corp. (In re Orion Pictures Corp.)*, 21 F.3d 24, 27 (2d Cir. 1994) (emphasis in original). Stated differently, section 107(b) of the Bankruptcy Code does not require a party seeking its protections to demonstrate “good cause.” *Orion Pictures*, 21 F.3d at 28. “Courts have supervisory power over their records and files and may deny access to those records and files to prevent them from being used for an improper purpose.” *In re Kaiser Aluminum Corp.*, 327 B.R. 554, 560 (D. Del. 2005). Courts are required to provide such protections “generally where open inspection may be used as a vehicle for improper purposes.” *Orion Pictures*, 21 F.3d at 27. Indeed, the “authority goes not just to the protection of confidential documents, but to other confidentiality restrictions that are warranted in the interests of justice.” *See In re Glob. Crossing Ltd.*, 295 B.R. 720, 724 (Bankr. S.D.N.Y. 2003). Confidential commercial information “has been defined as information which would cause ‘an unfair advantage to competitors by providing them information as to the commercial operations of the debtor.’” *In re Faucett*, 438 B.R. 564, 567–68 (Bankr. W.D. Tex. 2010) (quoting *Orion Pictures Corp.*, 21 F.3d at 27)). Commercial information need not rise to the level of a trade secret to be protected under section 107(b) of the Bankruptcy Code.² Courts have also held that the resulting sealing order should be broad (*i.e.*, “any order which justice

² *See In re Northstar Energy, Inc.*, 315 B.R. 425, 429 (Bankr. E.D. Tex. 2004) (“A bankruptcy court is required to seal ‘documentary information filed in court that does not rise to the level of a trade secret but that is so critical to the operations of the entity seeking the protective order that its disclosure will unfairly benefit that entity’s competitors.’”); *see also Orion Pictures*, 21 F.3d at 27–28 (holding that section 107(b)(1) creates an exception to the general rule that court records are open to examination by the public and, under this exception, an interested party must show only that the information it wishes to seal is “confidential” and “commercial” in nature).

requires”). *See, e.g., In re Glob. Crossing, Ltd.*, 295 B.R. 720, 724 (Bankr. S.D.N.Y. 2003) (citing Fed. R. Bankr. P. 9018).

12. Sufficient cause exists for the Court to grant the requested relief because the Exhibits reference certain Confidential Information that the parties have agreed to keep confidential in accordance with the terms of the Protective Order. Courts in this District and elsewhere have granted requests to file information under seal where such information, as here, was subject to a non-disclosure agreement or protective order. *See, e.g., City of Sterling Heights Gen. Emps.’ Ret. Sys. v. Prudential Fin., Inc.*, No. 2:12- cv-05275 (MCA) (LDW), 2016 WL 234838, at *2-4 (D.N.J. Jan. 19, 2016) (granting motions to seal exhibits, citing the application of non-disclosure agreements to the documents as one factor); *Ramirez v. Temin & Co., Inc.*, No. 20 Civ. 6258 (ER), 2020 WL 6781222, at *4 (S.D.N.Y. Nov. 18, 2020) (“When a document is protected by a non-disclosure agreement, it will serve as an additional, although not dispositive, factor in determining whether the document contains confidential information or a trade secret and therefore should be sealed.”).

13. Accordingly, pursuant to section 107(b), Bankruptcy Rule 9018, and Local Rule 9018-1, the Debtor requests that this Court enter the Order permitting the filing of the Exhibits under seal.

Waiver of Memorandum of Law

14. The Debtor respectfully requests that the Court waive the requirement to file a separate memorandum of law pursuant to Local Rule 9013-1(a)(3) because the legal basis upon which the Debtor relies is set forth herein and the Motion does not raise any novel issues of law.

No Prior Request

15. No prior request for the relief sought in this Motion has been made to this or any other court.

Notice

16. The Debtor will provide notice of this Motion to the following parties and/or their respective counsel, as applicable: (i) the Office of the United States Trustee, (ii) BML Properties, Ltd., (iii) CSCEC Holding Company, Inc., and (iv) any other party that has filed a notice of appearance in the above-captioned case within one business day of its filing. The Debtor submits that, in light of the nature of the relief requested, no other or further notice need be given.

[Remainder of Page Intentionally Left Blank.]

WHEREFORE, the Debtor respectfully requests entry of the Order, substantially in the form attached hereto as **Exhibit A** authorizing the Debtor the file the Exhibits under seal.

Dated: February 10, 2025

/s/ Michael D. Sirota

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Exhibit A

Proposed Order

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**UNITED STATES BANKRUPTCY COURT
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In re:

CCA Construction, Inc.,³

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**ORDER GRANTING DEBTOR'S MOTION TO FILE UNDER SEAL CERTAIN
EXHIBITS FOR HEARING SCHEDULED FOR FEBRUARY 13, 2025 AT 10:00 A.M.
(ET)**

The relief set forth on the following page is **ORDERED**.

³ The last four digits of CCA's federal tax identification number are 4862. CCA's service address for the purposes of this chapter 11 case is 445 South Street, Suite 310, Morristown, NJ 07960.

Upon the *Motion to File Under Seal Certain Exhibits for the Hearing Scheduled for February 13, 2025 at 10:00 A.M. (ET)* (the “**Motion**”),² of the above-captioned debtor and debtor in possession (collectively, the “**Debtor**”) for entry of an order (this “**Order**”) (a) authorizing the Debtor to redact and file under seal the Exhibits and (b) granting related relief, all as more fully set forth in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334 and the Standing Order of Reference to the Bankruptcy Court Under Title 11 of the United States District Court for the District of New Jersey, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that sufficient cause exists for the relief set forth herein; and this Court having found that the Debtor’s notice of the Motion was appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor **IT IS HEREBY ORDERED THAT:**

☐ ORDERED that the request is denied and the underlying document(s) shall be deleted from the Court’s electronic filing system.

☐ ORDERED that the request is granted and the document(s) shall be sealed until the expiration of the judiciary records retention period at which time the document will be permanently deleted.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.