

**GIBBONS P.C.**

Robert K. Malone, Esq.  
Brett S. Theisen, Esq.  
Christopher P. Anton, Esq.  
Kyle P. McEvilly, Esq.  
One Gateway Center  
Newark, New Jersey 07102-5310  
Telephone: (973) 596-4500  
Email: rmalone@gibbonslaw.com  
btheisen@gibbonslaw.com  
cantan@gibbonslaw.com  
kmcevilly@gibbonslaw.com

**QUINN EMANUEL URQUHART & SULLIVAN LLP**

Eric D. Winston, Esq. (*pro hac vice* pending)  
865 S. Figueroa Street, 10th Floor  
Los Angeles, California 90017  
Telephone: (213) 443-3600  
Email: ericwinston@quinnemanuel.com

*Counsel to BML Properties, Ltd.*

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

In re:

CCA Construction, Inc.,<sup>1</sup>

Debtor.

(Hon. Christine M. Gravelle)

Chapter 11

Case No. 24-22548 (CMG)

**MOTION OF BML PROPERTIES, LTD. TO FILE UNDER  
SEAL THE MOTION OF BML PROPERTIES, LTD. FOR ENTRY  
OF AN ORDER (A) CONFIRMING DIRECT CLAIMS AGAINST CSCEC  
HOLDING COMPANY, INC., (B) GRANTING LIMITED RELIEF FROM THE  
AUTOMATIC STAY TO PURSUE POST-JUDGMENT RELIEF IN NEW YORK STATE  
COURT OR OTHER APPROPRIATE FORUM, (C) GRANTING DERIVATIVE  
STANDING TO PURSUE ESTATE ALTER EGO CLAIMS AGAINST CSCEC  
HOLDING COMPANY, INC., AND (D) GRANTING RELATED RELIEF**

<sup>1</sup> 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.



BML Properties, Ltd. (“BMLP”), by and through its undersigned counsel, hereby files this motion (the “Motion”) for entry of an order, substantially in the form attached hereto as Exhibit A (the “Proposed Order”), pursuant to sections 105(a) and 107(b)(1) of title 11 of the United States Code (the “Bankruptcy Code”), Rule 9037 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 9018-1 of the Local Rules of the United States Bankruptcy Court for the District of New Jersey (the “Local Rules”), for authority to redact and file under seal: (i) the *Motion of BML Properties, Ltd. for Entry of an Order (A) Confirming Direct Claims Against CSCEC Holding Company, Inc., (B) Granting Limited Relief from the Automatic Stay to Pursue Post-Judgment Relief in New York State Court or Other Appropriate Forum, (C) Granting Derivative Standing to Pursue Estate Alter Ego Claims Against CSCEC Holding Company, Inc., and (D) Granting Related Relief* [Docket No. 442] and (ii) the *Declaration of Robert K. Malone, Esq. in Support of Motion of BML Properties, Ltd. for Entry of an Order (A) Confirming Direct Claims Against CSCEC Holding Company, Inc., (B) Granting Limited Relief from the Automatic Stay to Pursue Post-Judgment Relief in New York State Court or Other Appropriate Forum, (C) Granting Derivative Standing to Pursue Estate Alter Ego Claims Against CSCEC Holding Company, Inc., and (D) Granting Related Relief* [Docket No. 443] (together, the “Direct/Derivative Claim Motion”). In support of the Motion, BMLP respectfully states as follows:

**PRELIMINARY STATEMENT**

1. As explained herein, BMLP brings this motion solely to comply with the Protective Order (defined below) that was entered in this case and to which BMLP is a party. The Protective Order requires BMLP to redact from the Direct/Derivative Claim Motion information that a party

has designated a Confidential or Highly Confidential and, contemporaneously therewith, file a motion to seal in accordance with 11 U.S.C. § 107(b) and related rules.

2. BMLP does not believe the redacted portions of the Direct/Derivative Claim Motion contain confidential commercial information or otherwise fall within any of the narrow exceptions in section 107(b) to the general rule requiring public access to papers filed in bankruptcy cases. The redactions include references to the contents of the Report of the Special Committee of Independent Directors of CCA Construction, Inc. (the “Special Committee Report”). BMLP similarly does not believe the Special Committee Report contains confidential commercial information or other protectable information, and BMLP intends to oppose the Debtor’s pending motion to seal the Special Committee Report [Docket No. 422], which is scheduled to be heard on September 15, 2025.

### **JURISDICTION AND VENUE**

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334(b), and the *Standing Order of Reference* from the United States District Court for the District of New Jersey, entered July 23, 1984, and amended on September 18, 2012 (Simandle, C.J.). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). BMLP consents to entry of a final judgment by the Court in connection with this Motion to the extent 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.

4. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

5. The statutory and legal predicates for the relief requested herein are sections 105(a) and 107(b)(1) of the bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1.

### **FACTUAL BACKGROUND**

6. On December 22, 2024 (the “Petition Date”), CCA Construction, Inc. (the “Debtor” or “CCA”) filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtor is operating its business and managing its properties as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. An examiner has been appointed in this chapter 11 case [Docket No. 296].

7. On January 22, 2025, the Court entered the *Confidentiality Stipulation and Protective Order* [Docket No. 86] (the “Protective Order”), which governs the production and exchange of all documents, deposition testimony, deposition exhibits, interrogatories, and other information produced, given, or exchanged by and between the Debtor, CSCEC Holding Company, Inc. (the “DIP Lender”) and BMLP, among other parties (each a “Party,” and collectively, the “Parties”).

8. The Protective Order, among other things, requires a Party filing pleadings, documents or other papers containing Confidential Information or Highly Confidential (each as defined in the Protective Order) with the Court to take certain precautions to protect Confidential Information and Highly Confidential Information, including redacting and filing under seal such information.

9. Accordingly, BMLP files this Motion solely to comply with the Protective Order. This Chapter 11 case demands transparency and raises issues of public importance such that, absent the Protected Order, the information in the Standing Motion would not otherwise satisfy the standard for sealing.

### **RELIEF REQUESTED**

10. By way of this Motion, BMLP seeks entry of the Proposed Order (i) authorizing BMLP to redact and file under seal the Direct/Derivative Claim Motion, and (ii) sealing the

Direct/Derivative Claim Motion until the expiration of the judiciary records retention period at which time the document will be permanently deleted.

**BASIS FOR RELIEF**

11. BMLP is seeking the entry of the Proposed Order because it is obliged to comply with the terms of the Protective Order. Paragraph E of the Protective Order dictates the procedures a party must follow when filing papers containing information that has been designated as Confidential or Highly Confidential Information. Paragraph E states, in part:

The pleadings, documents, or other papers (or attachments thereto) containing Confidential or Highly Confidential Information shall be redacted to remove all portions containing Confidential or Highly Confidential Information, and the receiving Party seeking to file or communicate these materials to creditors (the “Filing Party”) shall file the pleadings, documents, or other papers (or attachments thereto) with the aforementioned redactions on the Court’s electronic docket.

Protective Order, ¶ E(1).

12. The Protective Order further provides:

The Filing Party shall, contemporaneously with the aforementioned redacted filing, file (i) a motion to seal (a “Motion to Seal”) under section 107(b) of the Bankruptcy Code, Bankruptcy Rule 9018, and Rule 9018-1 of the Local Rules of the United States Bankruptcy Court for the District of New Jersey (the “Local Rules”); and (ii) unredacted copies of the pleadings, documents, or other papers under seal, also pursuant to section 107(b) of the Bankruptcy Code, Bankruptcy Rule 9018, and Local Rule 9018-1.

Protective Order, ¶ E(2).

13. Paragraph E(5) of the Protective Order makes it clear that the papers filed pursuant to the Protective Order will remain sealed only if such sealing is warranted under section 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018:

The Court shall decide whether sealing is appropriate pursuant to section 107(b) of the Bankruptcy Code and Bankruptcy Rule 9018. Until the Court decides the Motion to Seal, the pleading, document, or other paper (or attachments thereto) shall remain under seal.

Protective Order, ¶ E(5).

14. Pursuant to section 107(b)(1) of the Bankruptcy Code, the Court may authorize the filing of certain documents under seal to “protect an entity with respect to a trade secret or confidential research, development, or commercial information.” 11 U.S.C. § 107(b).

15. Bankruptcy Rule 9018 sets forth the procedure by which a party may move to seal a document under section 107(b). *Togut v. Deutsche Bank AG (In re Anthracite Capital, Inc.)*, 492 B.R. 162, 171 (Bankr. S.D.N.Y. 2013) (citing Fed. R. Bank. P. 9018 advisory committee’s note). In relevant part, “[o]n 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; *see also* Local Rule 9018-1 (setting out the procedure for obtaining a sealing order by filing a motion to seal and the proposed form of order). However, “Bankruptcy Rule 9018 does not expand a bankruptcy court’s ability to limit access to papers filed beyond the powers conferred in § 107, nor does it provide a separate basis for relief.” *Togut v. Deutsche Bank AG*, 492 B.R. at 171 (citing *In re Gitto/Global Corp.*, 321 B.R. 367, 373 (Bankr. D. Mass.), *aff’d*, 2005 U.S. Dist. LEXIS 7918, 2005 WL 1027348 (D. Mass.), *aff’d*, 422 F.3d 1 (1st Cir. 2005)).

16. Section 107(a) of the Bankruptcy Code provides that, with limited exceptions, “paper[s] filed in a case under [the Bankruptcy Code] and the dockets of a bankruptcy court are public records and open to examination by an entity.” 11 U.S.C. § 107(a). “Thus, § 107, like the common law right of access, triggers a presumption that records filed in judicial proceedings are subject to public review and inspection.” *Mesabi Metallics Co. v. Cleveland-Cliffs, Inc. (In re ESML Holdings Inc.)*, 135 F.4th 80, 95 (3d Cir. 2025).

17. Section 107(b) of the Bankruptcy Code provides a statutory exception to the broad policy and presumption of public access embodied in section 107(a):

(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 scandalous or defamatory matter contained in a paper filed in a case under this title.

11 U.S.C. § 107(b).<sup>2</sup>

18. Unless a document filed in a chapter 11 proceeding is subject to one of Section 107's express exceptions, the document must be open to public inspection. *In re Food Mgmt. Grp., LLC*, 359 B.R. at 554; *see also In re FiberMark, Inc.*, 330 B.R. 480, 506 (Bankr. D. Vt. 2005) ("If the § 107(b) exceptions do not apply, the inquiry is complete and the Court's decision will favor public access.") (citing *Phar-Mor, Inc. v. Defendants Named Under Seal (In re Phar-Mor, Inc.)*, 191 B.R. 675, 678 (Bankr. N.D. Ohio 1995)). That information might "conceivably" or "possibly" fall within a protected category is not a sufficient ground to seal documents. *See In re Gitto/Global Corp.*, 321 B.R. at 374.

19. The Third Circuit has explained that "confidential" means information "meant to be kept secret" and that, therefore, "by their plain terms, the categories of information protected by § 107(b) entail that their disclosure would cause competitive injury." *In re ESML Holdings*, 135 F.4th at 97; *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)). To fall within section 107(b)(1)'s exception

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<sup>2</sup> The word "confidential" in section 107(b)(1) modifies the terms "research," "development," and "commercial information." *See In re ESML Holdings*, 135 F.4th at 96 n. 8.

for commercial information, there must be “a *substantial risk* that disclosure would detrimentally affect the producing party's competitive standing.” *In re ESML Holdings*, 135 F4th at 97 (emphasis added).

20. In the case at bar, the Debtor, the DIP Lender, and certain other parties that have produced documents in this Chapter 11 case have designated certain documents cited and/or discussed in the Direct/Derivative Claim Motion as “Confidential Information” or “Highly Confidential Information.” BMLP believes that many, if not all, of such documents do not actually contain Confidential or Highly Confidential Information as defined in the Protective Order and, moreover, do not fall within any of the narrow exceptions in Bankruptcy Code section 107(b) to the general presumption of public access to Bankruptcy Court records. These documents should be made available to the public at large because the Bankruptcy Code requires such transparency and this case raises issues of public importance.

21. However, BMLP is committed to adhering with the Protective Order and thus respectfully requests that the Court enter the Proposed Order (i) authorizing BMLP to redact and file under seal the Direct/Derivative Claim Motion and (ii) sealing the Direct/Derivative Claim Motion until the expiration of the judiciary records retention period at which time the document will be permanently deleted. BMLP reserves all rights to challenge the designation of any documents in the Direct/Derivative Claim Motion designated as Confidential Information or Highly Confidential Information in accordance with the terms of the Protective Order

22. BMLP will provide unreacted copies of the Direct/Derivative Claim Motion to the Court, counsel to the Debtor, counsel to CSCEC Holding, proposed counsel to the Examiner, and the Office of the United States Trustee for the District of New Jersey (the “U.S. Trustee”) on a



confidential basis, and contemporaneously herewith, is filing redacted versions of the Standing Motion.

**WAIVER OF MEMORANDUM OF LAW**

23. BMLP represents that the facts and circumstances set forth herein do not present novel questions of law, and, as such, respectfully requests that this Court waive the requirement of filing a memorandum of law in accordance with Local Rule 9013-1(a)(3).

**NOTICE**

24. BMLP will provide notice of the Motion *via* electronic mail to (a) Debevoise & Plimpton, LLP and Cole Schotz PC, co-counsel to the Debtor; (b) Office of the United States Trustee for this Region, (c) McDermott, Will & Emery, counsel to Todd Harrison, Esq., Examiner, and (d) Lowenstein Sandler LLP, counsel to CSCEC Holding. BMLP will also provide notice of the Motion to any party that has requested notice pursuant to Bankruptcy Rule 2002 *via* the Court's CM/ECF system. BMLP submits that, in light of the nature of the relief requested, no other or further notice need be given.

**NO PRIOR REQUEST**

25. No prior request for the relief sought herein has been made to this Court or any other court.

**CONCLUSION**

**WHEREFORE**, for the reasons set forth herein, BMLP respectfully requests that the Court enter the Proposed Order granting the relief requested herein and granting such other relief as is just and proper.

August 15, 2025  
Newark, New Jersey

**GIBBONS P.C.**

/s/ Robert K. Malone  
Robert K. Malone, Esq.  
Brett S. Theisen, Esq.  
Christopher P. Anton, Esq.  
Kyle P. McEvelly, Esq.  
One Gateway Center  
Newark, New Jersey 07102-5310  
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Los Angeles, California 90017  
Telephone: (213) 443-3600  
Email: ericwinston@quinnemanuel.com

*Counsel to BML Properties, Ltd.*

# **EXHIBIT A**

**GIBBONS P.C.**

Robert K. Malone, Esq.  
Brett S. Theisen, Esq.  
Christopher P. Anton, Esq.  
Kyle P. McEvelly, Esq.  
One Gateway Center  
Newark, New Jersey 07102-5310  
Telephone: (973) 596-4500  
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*Counsel to BML Properties, Ltd.*

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

In re:

CCA Construction, Inc.,<sup>1</sup>

Debtor.

(Hon. Christine M. Gravelle)

Chapter 11

Case No. 24-22548 (CMG)

**ORDER CONCERNING REQUEST TO SEAL DOCUMENTS**

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

<sup>1</sup> 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.

Page 2 of 2

**Debtor:** CCA Construction, Inc.

**Case No.:** 24-22548 (CMG)

**Order:** *Order Concerning Request to Seal Documents*

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Upon the *Motion of BML Properties, Ltd. to File Under Seal the Motion of BML Properties, Ltd. for Entry of an Order (A) Confirming Direct Claims Against CSCEC Holding Company, Inc., (B) Granting Limited Relief from the Automatic Stay to Pursue Post-Judgment Relief in New York State Court or Other Appropriate Forum, (C) Granting Derivative Standing to Pursue Estate Alter Ego Claims Against CSCEC Holding Company, Inc., and (D) Granting Related Relief* (the “Motion”),<sup>1</sup> of BML Properties, Ltd. (“BMLP”) for entry of an order (this “Order”) authorizing BMLP to redact and file under seal: (i) the *Motion of BML Properties, Ltd. for Entry of an Order (A) Confirming Direct Claims Against CSCEC Holding Company, Inc., (B) Granting Limited Relief from the Automatic Stay to Pursue Post-Judgment Relief in New York State Court or Other Appropriate Forum, (C) Granting Derivative Standing to Pursue Estate Alter Ego Claims Against CSCEC Holding Company, Inc., and (D) Granting Related Relief* and (ii) the *Declaration of Robert K. Malone, Esq. in Support of Motion of BML Properties, Ltd. for Entry of an Order (A) Confirming Direct Claims Against CSCEC Holding Company, Inc., (B) Granting Limited Relief from the Automatic Stay to Pursue Post-Judgment Relief in New York State Court or Other Appropriate Forum, (C) Granting Derivative Standing to Pursue Estate Alter Ego Claims Against CSCEC Holding Company, Inc., and (D) Granting Related Relief* (together, the “Direct/Derivative Claim 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* from 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 the Court having found that

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<sup>1</sup> Defined terms not otherwise defined herein shall have the meanings ascribed in the Motion.

Page 2 of 2

**Debtor:** CCA Construction, Inc.

**Case No.:** 24-22548 (CMG)

**Order:** *Order Concerning Request to Seal Documents*

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venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that notice of the Motion was appropriate under the circumstances and no other notice need be provided; and the Court having reviewed the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish cause for the relief set forth in the Motion; and upon all of the proceedings had before the Court and after due deliberation and sufficient cause appearing therefor, it is hereby

**ORDERED** that the request is **DENIED** and the Direct/Derivative Claim Motion shall be deleted from the Court's electronic filing system.

**ORDERED** that the request is **GRANTED** and the Direct/Derivative Claim Motion shall be sealed until the expiration of the judiciary records retention period at which time the Direct/Derivative Claim Motion will be permanently deleted.

**GIBBONS P.C.**

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Kyle P. McEvelly, Esq.  
One Gateway Center  
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*Counsel to BML Properties, Ltd.*

**UNITED STATES BANKRUPTCY COURT  
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In re:

CCA Construction, Inc.,<sup>1</sup>

Debtor.

(Hon. Christine M. Gravelle)

Chapter 11

Case No. 24-22548 (CMG)

**NOTICE OF MOTION OF BML PROPERTIES, LTD. TO  
FILE UNDER SEAL THE MOTION OF BML PROPERTIES, LTD. FOR  
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<sup>1</sup> 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.

**PLEASE TAKE NOTICE** that BML Properties, Ltd. (“BMLP”) filed the *Motion of BML Properties, Ltd. to File Under Seal the Motion of BML Properties, Ltd. for Entry of an Order (A) Confirming Direct Claims Against CSCEC Holding Company, Inc., (B) Granting Limited Relief from the Automatic Stay to Pursue Post-Judgment Relief in New York State Court or Other Appropriate Forum, (C) Granting Derivative Standing to Pursue Estate Alter Ego Claims Against CSCEC Holding Company, Inc., and (D) Granting Related Relief* (the “Motion”) with the United States Bankruptcy Court for the District of New Jersey (the “Bankruptcy Court”).

**PLEASE TAKE FURTHER NOTICE** that a hearing to consider the relief sought in the Motion will be held on **September 15, 2025 at 10:00 a.m. (ET)** before the Honorable Christine M. Gravelle, United States Bankruptcy Court for the District of New Jersey, at the Clarkson S. Fisher United States Courthouse, 402 East State Street, Second Floor, Courtroom No. 3, Trenton, New Jersey 08608.

**PLEASE TAKE FURTHER NOTICE** that responses or objections, if any, to the Motion shall: (i) be in writing; (ii) set forth the specific basis thereof; (iii) be filed with the Clerk of the Bankruptcy Court; and (iv) be served upon the BMLP’s undersigned counsel, together with proof of service thereof, so as to be actually received no later than **September 8, 2025** (the “Objection Deadline”).

**PLEASE TAKE FURTHER NOTICE** that unless a response or objection is timely filed and served in accordance with this notice, it may not be considered by the Bankruptcy Court. In the event no objections are filed and served by the Objection Deadline, the relief requested in the Motion may be granted without a hearing.

**PLEASE TAKE FURTHER NOTICE** that BMLP has submitted a proposed form of order herewith. Oral argument is requested in the event an objection is timely filed.



**IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE  
BANKRUPTCY COURT MAY GRANT THE MOTION WITHOUT FURTHER NOTICE  
OR HEARING.**

Dated: August 15, 2025  
Newark, New Jersey

**GIBBONS P.C.**

/s/ Robert K. Malone  
Robert K. Malone, Esq.  
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Kyle P. McEvelly, Esq.  
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*Counsel to BML Properties, Ltd.*