

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

CD LIQUIDATION CO., LLC, f/ka
CYNERGY DATA, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 09-13038 (KG)

Jointly Administered

**THIRD MONTHLY APPLICATION OF
NIXON PEABODY LLP, COUNSEL FOR THE DEBTORS, FOR
ALLOWANCE OF COMPENSATION FOR SERVICES RENDERED
AND REIMBURSEMENT OF EXPENSES INCURRED
FROM NOVEMBER 1, 2009 THROUGH NOVEMBER 30, 2009**

Name of Applicant:

Nixon Peabody LLP

Authorized to Provide Professional Services to:

Debtors

Date of Retention Order:

September 15, 2009 (*nunc
pro tunc* to September 1,
2009)

Period for Which Compensation
and Reimbursement is Sought:

November 1, 2009 through
November 30, 2009

Amount of Compensation Sought as Actual,
Reasonable and Necessary:

\$186,977.50

Amount of Expense Reimbursement Sought as
Actual, Reasonable and Necessary:

\$3,955.64This is a(n) X Monthly ___ Interim ___ First Fee Application.

This is Nixon Peabody LLP's third monthly application.

The total time expended in connection with the preparation of this fee application is not included
as such time was expended after the Compensation Period.



Prior applications filed:

Date Filed	Period Covered	Requested		Approved	
		Fees	Expenses	Fees	Expenses
October 13, 2009	Sept. 1, 2009 – Sept. 30, 2009	\$355,326.25	\$3,502.16	\$283,357.00	\$3,502.16
November 11, 2009	Oct. 1, 2009 – Oct. 31, 2009	\$490,166.00	\$3,376.94	\$392,132.80	\$3,376.94

**TIME SUMMARY TO THIRD MONTHLY APPLICATION OF NIXON PEABODY LLP
FOR ALLOWANCE OF COMPENSATION FOR SERVICES RENDERED AND
REIMBURSEMENT OF EXPENSES**

<u>Name</u>	<u>Year of Admission</u>	<u>Hourly Rate</u>	<u>Total Hours</u>	<u>Total Fees</u>
Partner/Counsel				
Mark N. Berman	1977	\$815.00	51.20	\$41,728.00
Dennis J. Drebsky	1971	\$865.00	40.60	\$35,119.00
Michael P. Murphy	1987	\$790.00	3.90	\$3,081.00
Robert H. Christmas	1988	\$740.00	69.20	\$51,208.00
John C. Hayes, Jr.	1973	\$670.00	1.60	\$1,072.00
Christopher M. Mason	1985	\$765.00	3.00	\$2,295.00
(Blended Rate)		\$774.00		
Associate/Law Clerk				
Lee Harrington	1999	\$495.00	67.50	\$33,412.50
Bipul K. Mainali	2007	\$410.00	12.60	\$5,166.00
Michael Garcia	2009	\$330.00	21.20	\$6,996.00
(Blended Rate)		\$412.00 [†]		

[†] The “blended rate” for Nixon Peabody Partner and Associate hourly billing rates on this matter is \$592.00.

Paraprofessional				
Jeffrey Jarret	n/a	\$195.00	4.80	936.00
Joshua Headley	n/a	\$195.00	3.60	702.00
Wale Elegbe	n/a	\$210.00	23.70	4,977.00
Eric Newman	n/a	\$190.00	1.50	285.00
TOTAL			304.40	\$186,977.50

PROJECT CATEGORY SUMMARY

<u>Project Category</u>	<u>Project Code</u>	<u>Total Hours</u>	<u>Total Fees</u>
Asset Disposition	BK02	103.80	\$53,849.00
Business Operations	BK03	10.20	\$8,348.00
Case Administration	BK04	20.80	\$13,835.50
Claims Administration and Objections	BK05	7.60	\$6,394.00
Fee/Employment Applications	BK07	14.20	\$8,089.00
Financing	BK09	7.10	\$5,786.50
Litigation	BK10	113.10	\$69,566.50
Plan and Disclosure Statement	BK11	23.40	\$17,596.00
Meetings of and Communications with Creditors	BK15	4.20	43,513.00
TOTAL		304.40	\$186,977.50

EXPENSE SUMMARY

<u>Description</u>	<u>Amount</u>
Transportation	\$94.76
Copier/Media Services	.20
Postage	.88
Domestic Telephone Calls/Conference Calls	9.09
Express Delivery Service	32.75
Miscellaneous	\$3,857.96
TOTAL	\$3,995.64

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**THIRD MONTHLY APPLICATION OF
NIXON PEABODY LLP, COUNSEL FOR THE DEBTORS, FOR
ALLOWANCE OF COMPENSATION FOR SERVICES RENDERED
AND REIMBURSEMENT OF EXPENSES INCURRED
FROM NOVEMBER 1, 2009 THROUGH NOVEMBER 30, 2009**

Nixon Peabody LLP (“Nixon Peabody”), as counsel for Cynergy Data, LLC *et al.* (the “Debtors”), as and for its application for allowance of interim compensation for professional services rendered for the period November 1, 2009 through November 30, 2009, and for reimbursement of expenses incurred in connection with such services (the “Application”), respectfully states as follows:

**I. FEES AND EXPENSES FOR
WHICH ALLOWANCE IS SOUGHT**

1. This Application is made by Nixon Peabody pursuant to §§ 330 and 331 of title 11 of the United States Code (the “Bankruptcy Code”), Rule 2016 (a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), the Local Rules for the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), the United States Trustee Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. § 330 (Appendix A to 28 C.F.R. § 58) (the “Guidelines”) and as otherwise prescribed by Order of this Court setting forth the procedures for the payment of professionals in these cases for: (a) allowance of compensation for services rendered to the Debtor in the

aggregate amount of \$186,977.50; and (b) reimbursement of expenses incurred in connection with the rendering of such services in the aggregate amount of \$3,995.64, for the period from November 1, 2009 through November 30, 2009 (the “Compensation Period”).

2. During the Compensation Period, Nixon Peabody attorneys expended a total of 270.80 hours for which compensation is requested. Nixon Peabody’s paraprofessionals also expended 33.60 hours during the Compensation Period in providing services to these estates for which compensation is requested. To the extent that time or disbursement charges for services rendered or disbursements incurred relate to the Compensation Period, but are not processed until after the date hereof, Nixon Peabody reserves the right to request additional compensation for such services and reimbursement of such expenses in a future application.

3. Nixon Peabody maintains contemporaneous computerized records of the daily time sheets submitted by all Nixon Peabody attorneys and paraprofessionals. These records provide a detailed description of the services rendered by each of the attorneys rendering services on behalf of the Debtor during the Compensation. Copies of Nixon Peabody time keeping records for such services rendered during the Compensation Period are attached hereto as Exhibit A.¹

4. Nixon Peabody seeks approval and payment of the fees and expenses incurred during the Compensation Period.

¹ For internal record keeping purposes, Nixon Peabody has two distinct client/matter time keeping codes for the Debtors: client/matter 053384/000003 for the Chapter 11 cases; and client/matter 053384/000004 for the asset sale. Certain time keepers entered time in either or both of the above matters, all of which time is compensable from these estates, and none of which is duplicative across the distinct client/matter numbers. With respect to the present Compensation Period, this issue only affects time entries in Task Codes No. 2 and all time in this three category has been aggregated by Task Code in this Application.

II. BACKGROUND

5. On September 1, 2009 (the “Petition Date”), the Debtors each filed a voluntary petition in this Court for relief under chapter 11 of the Bankruptcy Code. The factual background regarding the Debtors, including their business operations, their capital and debt structure, and the events leading to the filing of these bankruptcy cases, is set forth in detail in the Declaration of Charles M. Moore filed in support of the Debtors’ chapter 11 petitions and various first day applications and motions (the “Moore Declaration”).

6. On September 15, 2009, the Court entered an Order approving the retention of Nixon Peabody as counsel to the Debtors. A copy of the Order is attached hereto as Exhibit B.

7. The Debtors managed and operated their businesses as debtors in possession under Bankruptcy Code sections 1107 and 1108 through the sale of substantially all of their assets, which sale closed on October 26, 2009. Subsequent to the sale, a period encompassing all of the Compensation Period, the Debtors have been dealing with post-closing matters and completing the liquidation of their estates.

8. A Committee has been appointed in these cases.

9. The Court has jurisdiction over this Application pursuant to 28 U.S.C. §§ 157(b) and 1334. Venue of this Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This Application is a core proceeding pursuant to 28 U.S.C. §157(b)(2).

III. SERVICES RENDERED BY NIXON PEABODY DURING THE COMPENSATION PERIOD

10. The following is a summary description of the primary services rendered by Nixon Peabody during the Compensation Period, which highlights the benefits conferred upon the Debtors, their estates and creditors as a result of Nixon Peabody’s efforts. All of the professional services rendered by Nixon Peabody on behalf of the Debtors and their estates are

set forth in the computerized time records maintained by Nixon Peabody, and the Court respectfully is referred to those records for the details of all of the work performed by Nixon Peabody.

11. To facilitate analysis of the nature and amount of time expended on the work performed for the Debtors during the Compensation Period, Nixon Peabody's professionals have separated their computerized time keeping records into discrete, broad categories of tasks, each category assigned a specific number code. Nixon Peabody's professionals have endeavored to place each time entry into the most appropriate category although certain tasks might reasonably be placed into one or more of the defined categories. In no instance did Nixon Peabody's professionals duplicate any single time entry in more than one such category.

A. Asset Disposition (Amount: \$53,849.00)

12. The most significant effort in these Chapter 11 cases, and the reason they were filed, was to effectuate a sale of substantially all of the Debtors' assets under Section 363 of the Bankruptcy Code (the "363 Sale"). The Sale Order was entered on October 9, 2009. The closing occurred on October 26, 2009, just prior to the start of the Compensation Period. Nixon Peabody spent a significant amount of its time during the Compensation Period, 103.80 hours, working on matters, and advising the Debtors, in connection with post-closing issues related to the 363 Sale that produced value of \$81 million for the estates. The issues confronted in the post-closing period were often complex because of (i) the nature of the Debtors' business, where significant value derives from the Debtors' relationships with its numerous ISOs and merchants, and (ii) certain issues implicated in the so-called rolling reserve funds that affected the sale process. In order to close the 363 Sale on October 26, 2009 and to obtain the \$81 million value for the estates, several matters had to be deferred until the post-closing period. Nixon Peabody's effort after the closing of the 363 Sale included advice to the Debtors and negotiation with all

parties including the purchaser, the lenders, the Committee and various other parties in interest to address post-closing issues related to the assumption or rejection of executory contracts and unexpired leases, allocation of purchase price, treatment of the sale proceeds escrowed to cover cure costs, the asserted rights of first refusal under certain agreements and the waiver of the restrictions on the transfer of rights under other agreements and resolution of cure issues related to the Debtors' funded and unfunded ISO and merchant reserves. In pursuing these matters, Nixon Peabody and the Debtors made efforts to balance the interests of the Debtors and their estates with those of their creditors. The 363 Sale was the center piece of these bankruptcy cases and the time and effort spent by Nixon Peabody during the Compensation Period to advise the Debtors and negotiate with numerous parties in interest on post-closing issues related to the 363 Sale have been instrumental in providing value to these estates. The detailed time entries of Nixon Peabody's professionals that fall within this time category are attached here as Exhibit A.1.

B. Business Operations (Amount: \$8,348.00)

13. Nixon Peabody expended 10.20 hours on work relating to business operations of the Debtors. Nixon Peabody attorneys provided counseling and services in connection post-closing ownership of certain assets, payments of administrative expenses, recovery of certain costs from the purchaser of the Debtors' assets, cash management issues, insurance issues, the preparation and filing of the Monthly Operating Report required by the United States Trustee and various other operational issues. The detailed time entries of Nixon Peabody's professionals that fall within this time category are attached here as Exhibit A.2.

C. Case Administration (Amount: \$13,835.50)

14. Nixon Peabody expended 20.80 hours on work relating to case administration. The efforts involved: generally representing and counseling the Debtors regarding general

administrative matters and issues as they arose; providing services related to the proper administration of these chapter 11 cases; and identifying matters that needed to be addressed in the wind-up of these Chapter 11 cases, and developing strategies to effectively deal with these matters. In addition, Nixon Peabody advised the Debtors in connection with budgeting for post-closing operations and how best to address issues that arose in the post-closing period on the 363 Sale. Nixon Peabody also communicated with the Committee on variety of issues, reviewed numerous pleadings filed in the case, and conferred with the Debtors regarding case strategy. The detailed time entries of Nixon Peabody's professionals that fall within this time category are attached here as Exhibit A.3.

D. Claims Administration and Objections (Amount: \$6,394.00)

15. Nixon Peabody expended 7.60 hours working on various claims matters including settlement of claim disputes, analysis and resolution of cure claims and negotiating claim disputes with non-debtor parties. Nixon Peabody also prepared and filed the Claims Bar Date Motion and related notices. These efforts were principally related to claims implicated in the assumption of ISO and merchant agreements in connection with the successful 363 Sale. The detailed time entries of Nixon Peabody's professionals that fall within this time category are attached here as Exhibit A.4.

E. Fee/Employment Applications (Amount: \$8,089.00)

16. Nixon Peabody expended 14.20 hours on work relating to preparation of its Second Monthly Fee Application, reviewing other professional fee applications and related matters in these cases. The detailed time entries of Nixon Peabody's professionals that fall within this time category are attached here as Exhibit A.5.

F. Financing (Amount: \$5,786.50)

17. Nixon Peabody expended 7.10 hours on work relating to the use of cash collateral and the related liquidating budget in these cases. These efforts included reviewing and revising drafts of the proposed cash collateral stipulation, and extensive negotiations with the lenders and other parties in interest on financing issues that had implications for the Debtors' administration of these estates in the post-closing period. These efforts were instrumental in securing the necessary postpetition financing as the Debtors prepared to wind up their business in the period after they closed on the 363 Sale and to permit for orderly post-sale administration of these estates. The detailed time entries of Nixon Peabody's professionals that fall within this time category are attached here as Exhibit A.6.

G. Litigation (Amount: \$69,566.50)

18. Nixon Peabody expended 113.10 hours on work relating to various litigation matters pending when these Chapter 11 cases commenced as well as on litigation matters arising in these bankruptcy cases. Most of the litigation is not controlled by the Debtors, but rather represents a dispute between the Term B Lenders and Harris over whether the unfunded Rolling Reserve must be cured as part of the assumption and assignment of various executory contracts. However, the Debtors must deal with this litigation because many documents have been requested for production, depositions have been noticed and hearings conducted for various reasons in relation to the litigation. Nixon Peabody worked to protect documents from distribution, produce documents and advise the Debtors in connection with discovery and related matters arising in connection with the 363 Sale. The detailed time entries of Nixon Peabody's professionals that fall within this time category are attached here as Exhibit A.7.

H. Plan and Disclosure Statement (Amount: \$17,596.00)

19. Nixon Peabody expended 23.40 hours on work drafting of the liquidating Plan and Disclosure Statement and related matters in these cases. In addition, Nixon Peabody spent significant time and effort negotiating with other parties in interest on issues related to the Plan and Disclosure Statement. The detailed time entries of Nixon Peabody's professionals that fall within this time category are attached here as Exhibit A.8.

I. Meetings of and Communications with Creditors (Amount: \$3,513.00)

20. Nixon Peabody expended 4.20 hours on work relating to meetings and communications with creditors. Nixon Peabody communicated with the Committee's counsel and other professionals to provide information to creditors and to address the concerns of the Committee and its constituents related to claims resolution and Plan preparation. In addition, Nixon Peabody reviewed numerous agreements and negotiated with creditors regarding cure objections on the assignment of executory contracts related to the 363 Sale. These efforts enabled the Debtors to work efficiently and constructively as they moved to wind down in the post-closing period after the successful 363 Sale. The detailed time entries of Nixon Peabody's professionals that fall within this time category are attached here as Exhibit A.9.

J. Summary

21. The foregoing discussion only summarizes and highlights the more significant professional services rendered during the Compensation Period by Nixon Peabody on behalf of the Debtors in connection with these chapter 11 cases.

22. The matters handled by Nixon Peabody have required thoughtful effort by the partners, associates, law clerks and paraprofessionals of Nixon Peabody. Nixon Peabody submits that, under often-challenging circumstances, it has provided its services achieved the foregoing results, and most notably obtaining Court approval for, and closing on, the 363 Sale, in

an expeditious and efficient manner, always mindful of the costs to the Debtors' estates. In all of these efforts, Nixon Peabody has been able to work within the budget for professional fees imposed on it by the financing orders in these cases.

IV. THE COMPENSATION REQUESTED

23. § 330 provides that a court may award a professional employed under § 327 of the Bankruptcy Code "reasonable compensation for actual necessary services rendered . . . and reimbursement for actual, necessary expenses." 11 U.S.C. § 330(a)(1). § 330 also sets forth the criteria for the award of such compensation and reimbursement.

24. In the instant case, Nixon Peabody respectfully submits that the services for which it seeks compensation in this Application were necessary for and beneficial to the Debtors' estates. Nixon Peabody further submits that the compensation requested herein is reasonable in light of the nature, extent, and value of such services to the Debtors, their estates, and all parties in interest. Principally, without the time and effort expended by Nixon Peabody during the Compensation Period related to issues arising in the aftermath of the Debtors' successful 363 sale, significant value would have been lost to these estates and their constituents. As this Court has learned, this sale process was complex and the post-closing issues have been no less challenging for the Debtors. Nixon Peabody provided substantial value to these estates in guiding the Debtors through these issues.

25. In awarding compensation pursuant to §§ 330 and 331 of the Bankruptcy Code to professional persons employed under §§ 327 or 1103 of the Bankruptcy Code, the Court must take into account, among other factors, the cost of comparable non-bankruptcy services. The legislative history of this section aptly explained the need to provide for compensation comparable to other non-bankruptcy legal services:

The effect of [section 330] is to overrule . . . cases that require fees to be determined based on notions of conservation of the estate and economy of administration. If [those] cases were allowed to stand, attorneys that could earn much higher incomes in other fields would leave the bankruptcy arena. Bankruptcy specialists, who enable the system to operate smoothly, efficiently, and expeditiously, would be driven elsewhere, and the bankruptcy field would be occupied by those who could not find other work and those who practice bankruptcy law only occasionally almost as a public service. Bankruptcy fees that are lower than fees in other areas of the legal profession may operate properly when the attorneys appearing in bankruptcy cases do so intermittently, because a low fee in a small segment of a practice can be absorbed by other work. Bankruptcy specialists, however, if required to accept fees in all cases that are consistently lower than fees they could receive elsewhere, will not remain in the bankruptcy field.

H.R. Rep. No. 595, 95th Cong., 1st Sess. 329-30 (1977). See also 124 Cong. Rec. H11,091-92 (daily ed. Sept. 28, 1978); S17,408 (daily ed. Oct. 6, 1978).

26. The professional services rendered by Nixon Peabody required, and will continue to require, an expenditure of substantial time and effort. During the Compensation Period, in excess of 300 recorded hours have been expended by Nixon Peabody's professionals and paraprofessionals in the rendition of the required professional services and for which Nixon Peabody seeks compensation.

27. Nixon Peabody respectfully submits that application of the foregoing criteria justifies the compensation requested in this Application.

28. Nixon Peabody has encountered complex and difficult legal and operational problems during the course of these bankruptcy cases, involving many areas of legal expertise in various areas. The professional services rendered in those matters have been performed by attorneys with broad expertise and high levels of skill in their practice areas or specialty. This highly professional and expert group of attorneys has ensured that the Debtors' cases have progressed in an efficient manner. Furthermore, in providing its services to the Debtors, Nixon Peabody again has been able to keep below the cap set for counsel fees and expenses in the DIP

budget. The primary attorneys and their areas of expertise are set forth in Exhibit C attached hereto.

29. During the Compensation Period, Nixon Peabody has been required to furnish extensive services that have often fully occupied the time of its attorneys, frequently to the preclusion of other firm matters and clients. If this was not a case under the Bankruptcy Code, Nixon Peabody would charge the Debtors and expect to receive on a current basis, an amount at least equal to the amounts requested herein for the professional services rendered. Pursuant to the criteria normally examined in bankruptcy cases, and based upon the factors to be considered in accordance with §§ 330 and 331 of the Bankruptcy Code, the results that have been achieved throughout this case more than substantiate charges in that amount. The services that Nixon Peabody has rendered thus far have produced benefits that have inured to the Debtors, their estate and their creditors, as exemplified by the October 9, 2009 entry of the Sale Order.

30. The prosecution of these matters to date justifies compensation at least in the amount requested. Thus, Nixon Peabody requests that such compensation be allowed. In view of the policy underlying §§ 330 and 331 of the Bankruptcy Code that attorneys in bankruptcy cases be compensated on a parity with attorneys practicing in other fields, it is respectfully submitted that compensation should be allowed as requested.

31. In view of the foregoing, Nixon Peabody respectfully requests that it be allowed compensation in the amount of \$186,977.50 for the Compensation Period.

V. DISBURSEMENTS

32. Nixon Peabody incurred \$3,995.64 in expenses in providing professional services during the Compensation Period. A summary of the expenses incurred by Nixon Peabody during the Compensation Period is attached hereto as Exhibit D.

33. With respect to photocopying expenses, Nixon Peabody charges all of its clients \$0.10 per page for copies made. With respect to facsimile expenses, Nixon Peabody excludes charges for incoming facsimile transmissions. Nixon Peabody includes charges for outgoing facsimiles at \$1.00 per page. These charges are intended to cover Nixon Peabody's direct operating costs for photocopying and facsimile facilities, which costs are not incorporated into the Nixon Peabody hourly billing rates. Only clients who actually use photocopying, facsimile, and other office services of the types set forth in the expense summary are separately charged for such service. The effect of including such expenses as part of the hourly billing rates would impose that cost upon clients who do not require extensive photocopying, facsimile, and document production facilities and services. The amount of the standard photocopying and facsimile charge is intended to allow Nixon Peabody to cover the related expenses of its photocopying and telecopying service.

34. If time constraints imposed by the circumstances of this case require Nixon Peabody's attorneys and other employees to devote substantial amounts of time during the evenings and on weekends to the performance of legal services on behalf of the Debtors, consistent with firm policy, attorneys and other employees of Nixon Peabody who worked late into the evenings are reimbursed for their reasonable meal costs and their cost for transportation home. Nixon Peabody's regular practice is not to include components for those charges in overhead when establishing billing rates, and to charge its clients for these and all other out-of-pocket disbursements incurred during the regular course of the rendition of services.

35. In addition, same day and overnight delivery of documents and other materials may be required at times as a result of deadlines and/or emergencies necessitating the use of such

express services. These disbursements are not included in Nixon Peabody's overhead for the purpose of setting billing rates.

36. Nixon Peabody has made every effort to minimize its disbursements in this case. The actual expenses incurred in providing professional services were absolutely necessary, reasonable and justified under the circumstances to serve the needs of the Debtors, their estates and creditors. None of the travel-related expenses of Nixon Peabody attorneys included herein were for first-class airfare, luxury accommodations, or deluxe meals.

37. In view of the foregoing, Nixon Peabody respectfully requests that it be reimbursed in the amount of \$3,994.64 for expenses incurred during the Compensation Period.

VI. CONCLUSION

38. The legal services summarized by this Application and rendered by Nixon Peabody to the Debtors during the Compensation Period were substantial, professional, and beneficial to the Debtors. They were reasonable and necessary to the preservation and maximization of the Debtors' estates.

39. As noted above, the amounts sought by Nixon Peabody consist only of actual and reasonable billable time expended by attorneys of \$186,977.50 and actual and necessary disbursements made by Nixon Peabody of \$3,995.64 during the Compensation Period. As demonstrated throughout this Application, the other factors typically considered in determining compensation -- including complexity, results achieved, special expertise, magnitude of the matter, and professional standing -- all militate toward the conclusion that the amount of compensation requested by Nixon Peabody is necessary, fair, and reasonable.

40. In light of (a) the complexity of these matters, (b) the results achieved, (c) the significant contributions made and time devoted, often under severe time constraints and to the

preclusion of other matters, (d) awards of compensation in similar cases, and (e) other factors pertinent to the allowance of compensation, Nixon Peabody believes that the compensation sought herein is fair and reasonable and is authorized under the relevant provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Guidelines, and the Order of this Court setting forth the procedures for the payment of professionals in this case.

41. All services for which compensation is sought were performed for, and on behalf of, the Debtors and their estates, and not on behalf of any other creditor or party in interest. Nixon Peabody is charging its standard hourly rate for professionals performing services. No payments have heretofore been made or promised to Nixon Peabody for services rendered, or to be rendered, in connection with these cases, except as described in this Application. Nixon Peabody has not entered into any agreement, express or implied, with any other party in interest for the purpose of fixing or sharing fees or other compensation to be paid for professional services rendered in this case.

VII. CERTIFICATE OF COMPLIANCE AND WAIVER

42. The undersigned representative of Nixon Peabody certifies that he has reviewed the requirements of Del. Bankr. LR 2016-2 and that this Application substantially complies to that Local Rule. To the extent that this Application does not comply in all respects with the requirements of Del. Bankr. LR 2016-2, Nixon Peabody believes that such deviations are not material and respectfully requests that any such requirement be waived.

WHEREFORE, Nixon Peabody respectfully requests that this Court enter an order (a) directing the payment of (i) \$186,977.50 as compensation for the Compensation Period; and (ii) reimbursement of actual and necessary expenses incurred and recorded by Nixon

Peabody for the Compensation Period in the amount of \$3,995.64; and (b) granting such other and further relief as this Court deems just and proper.

Dated: December 10, 2009

NIXON PEABODY LLP

/s/ Lee Harrington
Mark N. Berman
Dennis J. Drebsky
Lee Harrington (DE No. 4046)
437 Madison Avenue
New York, New York 10022
Telephone: (212) 940-3000
Facsimile: (212) 940-3111

*Counsel for the Debtors
and Debtors in Possession*

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

CD LIQUIDATION CO. PLUS, LLC, f/k/a
CYNERGY DATA, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 09-13038 (KG)

Jointly Administered

Hearing Date: TBD

Objection Deadline: December 30, 2009 at 4:00 p.m.

**NOTICE OF THIRD MONTHLY APPLICATION OF NIXON PEABODY LLP, COUNSEL
FOR THE DEBTORS, FOR ALLOWANCE OF COMPENSATION FOR SERVICES
RENDERED AND REIMBURSEMENT OF EXPENSES INCURRED FROM
NOVEMBER 1, 2009 THROUGH NOVEMBER 30, 2009**

TO: All parties on the Attached Service List

Nixon Peabody LLP, counsel for the Debtors (hereinafter referred to as “Applicant”) has filed its **Third Monthly Application of Nixon Peabody LLP, counsel for the Debtors, for Allowance of Compensation for Services Rendered and Reimbursement of Expenses incurred from November 1, 2009 through November 30, 2009** (the “Application”).

All objections and other responses (collectively, “Objections”) to the Application must be: (i) filed with the Clerk of the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 3rd Floor, Wilmington, Delaware 19801, on or before **December 30, 2009 at 4:00 p.m. (ET) (the “Objection Deadline”)**; and (ii) served so as to be actually received no later than the Objection Deadline by the following entities:

Office of the United States Trustee
844 King Street
Room 2313
Wilmington, Delaware 19801
Attn: Thomas P. Tinker, Esq.

Cynergy Data, LLC
30-30 47th Avenue
9th Floor
Long Island City, NY 11101

Nixon Peabody LLP
437 Madison Avenue
New York, NY 10056
Attn: Dennis J. Drebsky, Esq.

Pepper Hamilton LLP
Hercules Plaza, Suite 5100
1313 N. Market Street, P.O. Box 1709
Wilmington, Delaware 19899-1709
Attn: David B. Stratton, Esq.
Evelyn J. Meltzer, Esq.
John H. Schanne, II, Esq.

¹ The Debtors are the following entities (with the last four digits of their federal tax identification numbers in parentheses): Cynergy Data, LLC (8677); Cynergy Data Holdings, Inc. (8208); Cynergy Prosperity Plus, LLC (4265). The mailing address for the Debtors is 30-30 47th Avenue, 9th Floor, Long Island City, New York 11101.

Ashby & Geddes
500 Delaware Avenue, 8th Floor
P.O. Box 1150
Wilmington, DE 19899
Attn: Gregory Alan Taylor, Esq.
Karen B. Skomorucha, Esq.

A HEARING ON THE APPLICATION WILL BE SCHEDULED at the Court's convenience before the Honorable Kevin Gross, United States Bankruptcy Court for the District of Delaware, 824 Market Street, Wilmington, Delaware 19801, only in the event there are one or more objection(s) to the Application as filed and served in accordance herewith.

IF YOU FAIL TO RESPOND IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF DEMANDED IN THE APPLICATION WITHOUT FURTHER NOTICE OR HEARING.

Dated: December 10, 2009
Wilmington, Delaware

Respectfully submitted,

PEPPER HAMILTON LLP

/s/ Evelyn J. Meltzer
David B. Stratton (DE No. 960)
Evelyn J. Meltzer (DE No. 4581)
John H. Schanne, II (DE No. 5260)
Hercules Plaza, Suite 5100
1313 Market Street
P.O. Box 1709
Wilmington, DE 19899-1709
Telephone: (302) 777-6500
Facsimile: (302) 421-8390

-and-

NIXON PEABODY LLP
Mark N. Berman
Dennis J. Drebsky
Lee Harrington (DE No. 4046)
437 Madison Avenue
New York, New York 10022
Telephone: (212) 940-3000
Facsimile: (212) 940-3111

*Counsel for the Debtors
and Debtors in Possession*

EXHIBIT A

NIXON PEABODY LLP

Counsel to Cynergy Data, LLC, et al.
Debtors and Debtors in Possession

Itemized Invoices for the Period November 1, 2009 through November 30, 2009

[See attached]

EXHIBIT A

EXHIBIT A.1

Nixon Peabody LLP

Attorneys at Law
 437 Madison Avenue
 New York, NY 10022
 TEL: (212) 940-3000
 FAX: (212) 940-3111

December 9, 2009

Steve Aschettino
 Cynergy Prosperity Plus
 30-30 47th Avenue, 9th Floor
 Long Island City, NY 11104

Invoice No. 9148999
 Account: 053384
 Terms: Due Upon Receipt

FOR PROFESSIONAL SERVICES RENDERED through November 30, 2009, including:

MATTER NO. 000003 CHAPTER 11

For Professional Fees:**BK02 Asset Disposition**

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Fees</u>	<u>Description of Services</u>
11/02/09	D. Drebsky	1.20	1,038.00	Calls with Comvert attorney regarding post-closing matters (.5). Follow up on discussed items (.7).
11/02/09	D. Drebsky	0.80	692.00	Reconciliation of various cure claim disputes.
11/02/09	M. Berman	1.00	815.00	E-mails regarding wind-down budget (0.2). Telephone call from P. Antoszyk, requests update to Sources and Uses to reflect current obligation to banks, presence of \$14 Million note (0.2). Telephone call to B. Mainali regarding note (0.1). E-mail to CM & D regarding update (0.1). Review e-mail from B. Mainali regarding note with Bodman (0.1). Prepare reply e-mail (0.1). Review further e-mails regarding bank obligations (0.2). Review e-mail from G. Bray.

11/02/09	M. Berman	0.70	570.50	Review e-mail from L. Mandel regarding escrow disbursements (0.1). E-mail to D. Drebsky (0.1). Meeting with L. Harrington (0.2). Telephone call from D. Drebsky, discuss how to address L. Mandel e-mail (0.2). Review further e-mails (0.1).
11/02/09	L. Harrington	2.10	1,039.50	Continue to work to resolve cure objections (1.7). Further revise schedules to motion to reject leases (0.4).
11/03/09	D. Drebsky	2.10	1,816.50	Review motion to reject executory contracts and cross evaluate related records and issues (1.3). Prepare for and multiple calls with S. Aschettino regarding post-closing contract rejection questions (per APA) and related matters and follow up work (0.8).
11/03/09	L. Harrington	2.30	1,138.50	Continue to work to resolve cure objections (1.6). Revise motion to reject leases (0.7).
11/03/09	M. Berman	0.30	244.50	Prepare for and telephone call from L. Ossolinski regarding status of Sources & Uses update, issues with Harris & Lender reserves, Comerica application of funds, etc.
11/03/09	M. Berman	0.90	733.50	Prepare for, telephone call with L. Ossolinski and J. York regarding budget, sources and uses, procedural context, and follow up work (0.4). Review DIP Order (Final) and message left for J. York regarding Para. 2(a)v) (0.3). Review his reply and respond (0.2).
11/03/09	M. Berman	1.40	1,141.00	Prepare for, meeting with B. Mainali regarding post-closing work, priorities, issues, strategies, and follow up work.
11/04/09	M. Berman	0.50	407.50	Review e-mail from B. Mainali regarding \$14MM note (0.1). Respond (0.1). Telephone call to P. Antoszyk regarding budget and note and follow up work (0.3).

11/04/09	M. Berman	0.20	163.00	Review e-mail from L. Ossolinski regarding Harris reconciliation process (0.1). Consider and respond (0.1).
11/04/09	M. Berman	0.30	244.50	Review e-mail from L. Ossolinski regarding swap documents forwarded by M. Bakst (0.1). E-mail to B. Mainali (0.1). Review reply and follow up work (0.1).
11/04/09	L. Harrington	2.70	1,336.50	Continue to work to resolve cure objections (2.4). Further revise motion to reject leases (0.3).
11/05/09	D. Drebsky	1.60	1,384.00	Prepare for and multiple calls regarding post-petition rolling reserves, release to Harris and extensive follow up work.
11/05/09	M. Berman	0.20	163.00	Review A. Bauer e-mail regarding monthly revenue, funded rolling reserves (0.1). Telephone call to M. Bakst, message left regarding funded rolling reserves (0.1).
11/05/09	M. Berman	0.20	163.00	Review \$14 Million Subordinated Note and cover letter from Bodman.
11/05/09	M. Berman	0.20	163.00	Review revised Motion to Reject.
11/05/09	L. Harrington	3.10	1,534.50	Continue to work to resolve cure objections (2.6). Further revise motion to reject leases (0.5).
11/06/09	M. Berman	0.80	652.00	Review e-mail from L. Ossolinski regarding further invoice from Harris for Tory's legal fees (0.1). Review Section 3.3 of BIN Agreement, e-mail response and related analysis (0.7).
11/06/09	M. Berman	0.50	407.50	Review A. Bauer e-mail regarding \$1.6M reserve and monthly revenue (0.1). Telephone call from L. Ossolinski regarding same and follow up work (0.2). E-mail to A. Bauer (0.2).
11/06/09	M. Berman	0.20	163.00	Telephone call from M. Bakst regarding \$1.6M transfer (0.1). Telephone conference with L. Ossolinski (0.1).

11/06/09	M. Berman	0.90	733.50	Message from M. Bakst regarding APA and Monthly Revenue (0.1). Review APA and related analysis (0.3). Review various e-mails regarding allocation between Buyer Seller (0.2). Telephone conference with M. Bakst regarding same (0.1). Telephone call to C. Moore (0.1). Telephone call to L. Ossolinski (0.1).
11/06/09	M. Berman	1.00	815.00	Telephone call from M. Bakst, R. Diehl, and V. Slapak regarding \$1.6M account transfer (0.2). Telephone call to L. Ossolinski regarding rolling reserves (funded and unfunded) (0.2). Telephone call to R. Diehl, message left (0.1). E-mail to R. Diehl regarding same (0.1). Work D. Drebsky regarding same and asset disposition issues (0.4).
11/06/09	M. Berman	0.40	326.00	Further e-mails from various parties regarding closing adjustments and allocations of Monthly Revenue.
11/06/09	L. Harrington	2.10	1,039.50	Continue to work to resolve cure objections (0.5). Further revise motion to reject leases (0.5).
11/06/09	M. Berman	0.20	163.00	Telephone call from C. Moore regarding swaps, and hold off on Motion to Reject Ex Cont until Monday (0.1). Discuss possible accrual of administrative expense (0.1).
11/06/09	M. Berman	0.50	407.50	Telephone call from M. Bakst, discuss escrow of \$1.6M from Chapter 11 funded rolling reserves and related work (0.2). E-mail to L. Ossolinski (0.1). Telephone call from L. Ossolinski - ok to allow Harris to set off \$1.6M (0.1). Telephone call to M. Bakst, w/c/b (0.1).

11/08/09	M. Berman	0.60	489.00	Review e-mail from B. Mainali (0.1). Review Schedule of Closing Documents (0.2). E-mail to M. Mainali regarding Designation of Contracts (0.1). Review reply (0.1). Locate and forward to B. Mainali the 2 letters (10/25 and 10/26) from Purchaser designating excluded contracts (0.1).
11/09/09	M. Berman	0.20	163.00	Prepare for and telephone call to L. Ossolinski, discuss allocation of Monthly Revenue between Buyer and Seller, issues being encountered.
11/09/09	L. Harrington	2.10	1,039.50	Continue to work to resolve cure objections.
11/09/09	M. Berman	0.50	407.50	Review further e-mail from B. Mainali regarding 9/28/09 letter with initial designation of contracts (0.2). Review further e-mail regarding 9/28 letter(0.1). Reply (0.1). Review e-mail from B. Mainali to S. Aschettino regarding 9/28 letter (0.1).
11/09/09	M. Berman	1.10	896.50	Review e-mail from S. Aschettino regarding transfer of minority interests (0.1). E-mail to D. Drebsky regarding same and other issues (0.3). Review his response to S. Aschettino (0.1). Telephone call to D. Drebsky, discuss issues regarding post-closing transfer of minority interests (0.2). Review further e-mail from S. Aschettino (0.1). Review e-mail from D. Drebsky with form of letter (not signed) relating to extension of 60 days for proration and allocation (0.1). Reply (0.1). Telephone call to D. Drebsky regarding same (0.1).
11/10/09	L. Harrington	1.60	792.00	Continue to work to resolve cure objections.
11/11/09	M. Berman	0.10	81.50	E-mail exchange with B. Mainali regarding debtor name change.
11/11/09	L. Harrington	2.10	1,039.50	Continue to work to resolve cure objections.

11/12/09	L. Harrington	4.00	1,980.00	Draft stipulation to resolve cure objection (1.6). Work on resolving cure objections (0.6). Finalize, file and serve Motion to Reject Leases (0.9). Attention to objections to Escrow Distribution Motion (0.9).
11/13/09	M. Berman	0.10	81.50	Review e-mail from B. Mainali regarding right of first refusal. Respond.
11/13/09	L. Harrington	3.10	1,534.50	Revise stipulation to resolve cure objections (1.1). Work on resolving cure objections (1.4). Attention to various objections to Escrow Distribution Motion (0.6).
11/14/09	M. Berman	0.30	244.50	Review B. Mainali e-mail and Jones Day article about IT Group decision on right of first refusal. E-mail analysis and questions to B. Mainali.
11/14/09	L. Harrington	0.40	198.00	Attention to various objections to Escrow Distribution Motion.
11/16/09	M. Berman	0.30	244.50	E-mail to D. Drebsky and L. Harrington regarding Plan issues (0.1). Review e-mail from L. Harrington with revisions (0.1). E-mail to E. Meltzer regarding form of Disclosure Statement and Liquidation Trust (0.1).
11/16/09	L. Harrington	3.30	1,633.50	Revise stipulations to resolve cure objection (0.9). Work generally on resolving cure objections (0.6). Attention to objections to Escrow Distribution Motion and revise form of order (1.8).
11/17/09	L. Harrington	2.80	1,386.00	Prepare and supplement stipulations to resolve cure objection (1.3). Work generally on resolving cure objections (1.1). Attention to objections to Escrow Distribution Motion and revise form of order (0.4).
11/18/09	M. Berman	0.20	163.00	Review B. Mainali e-mail regarding Right of First Refusal. Respond with analysis.

11/18/09	M. Berman	1.00	815.00	Prepare for and telephone calls from L. Ossolinski, discuss October Commission to ISOs for Losses and whether reduction should be applied to Rolling Reserves, and follow up work (0.6). Extended discussion with D. Drebsky regarding same, strategy, and related issues and required work (0.4).
11/18/09	L. Harrington	2.20	1,089.00	Revise stipulations to resolve cure objection (0.5). Work generally on resolving cure objections (1.1). Further attention to objections to Escrow Distribution Motion and revised form of order (0.6).
11/19/09	L. Harrington	3.20	1,584.00	Revise stipulations to resolve cure objections (0.6). Work generally on resolving cure objections (0.5). Further attention to objections to Escrow Distribution Motion and revised form of order (1.0). Draft notice regarding cure resolutions (0.7). Revise form of order regarding amended cure amounts (0.4).
11/20/09	M. Berman	0.20	163.00	Telephone call to D. Drebsky, discuss seeking a bar date, cost and need of notice to 80,000 merchants, publication notice.
11/20/09	L. Harrington	3.10	1,534.50	Revise stipulations to resolve cure objections (0.9). Work generally on resolving cure objections (1.4). Finalize revised Escrow Distribution form of order (0.4). Revise notice re cure resolutions (1.0). Revise form of order regarding amended cure amounts (0.4).
11/20/09	M. Berman	0.10	81.50	Telephone call from D. Drebsky regarding hearing on escrow order.
11/23/09	L. Harrington	1.60	792.00	Revise stipulations to resolve cure objections (0.4). Work generally on resolving cure objections (0.5). Revise notice regarding cure resolutions (0.3). Revise notice regarding amended cure amounts (0.4).

11/24/09	L. Harrington	1.30	643.50	Work generally on resolving cure objections (1.1). Revise notice regarding cure resolutions (0.2).
11/25/09	L. Harrington	2.60	1,287.00	Work to resolve Pivotal Payments Cure Objection (1.6). Work generally on resolving cure objections (0.7). Revise notice regarding cure resolutions (0.3).
11/27/09	L. Harrington	0.50	247.50	Work to resolve Cure Objections.
11/30/09	L. Harrington	2.70	1,336.50	Finalize, file and serve various notices of cure resolutions (1.1). Continue working generally to resolve remaining cure objections (1.0). Attention to resolving opposition to cure resolution notices (0.6).
11/30/09	M. Berman	0.20	163.00	Review waivers and offers for subsidiaries.
11/30/09	M. Berman	0.10	81.50	Review e-mail from B. Mainali regarding allocation and proration. Respond.

70.00	41,687.00
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Phase Total: Asset Disposition

70.00	41,687.00
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Nixon Peabody LLP

Attorneys at Law
 437 Madison Avenue
 New York, NY 10022
 TEL: (212) 940-3000
 FAX: (212) 940-3111

December 9, 2009

Steve Aschettino
 Cynergy Prosperity Plus
 30-30 47th Avenue, 9th Floor
 Long Island City, NY 11104

Invoice No. 9149026
 Account: 053384
 Terms: Due Upon Receipt

FOR PROFESSIONAL SERVICES RENDERED through November 30, 2009, including:

MATTER NO. 000004 ASSET SALE

For Professional Fees:**BK02 Asset Disposition**

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Fees</u>	<u>Description of Services</u>
11/02/09	B. Mainali	3.10	1,271.00	Review, evaluate and respond to e-mails and communications regarding post-closing issues (0.4). Preparation for and participate in extended conference calls regarding promissory note and post-closing items with lender counsel and NP team (2.4). Review the Rofr provisions in the minority interest entities (0.3).
11/02/09	M. Garcia	2.90	957.00	Prepared Closing Index of transaction Documents, review of Closing checklist, internal correspondences, and bankruptcy documents regarding the same (2.80). Communications with B. Mainali regarding the same (0.1).

11/03/09	B. Mainali	3.80	1,558.00	Review the index of closing documents, mark-comments, and evaluation of AmericaOne LLC's operating agreement to evaluate right of first refusal and consent requirements (3.4). Meeting with M. Berman to discuss the status of the post-closing items, minority interest transfer and bankruptcy matter (0.4).
11/03/09	M. Garcia	6.90	2,277.00	Revised Closing Index including B.Mainali's latest comments thereto and prepared distribution and correspondence with transaction time soliciting comments with respect to final index, team work on draft of prepared Right of First Refusal Notices prepared for Certified Equity, Mosaic, and Ustransact (5.8). Reviewed and analyzed related Operating Agreements applicable provisions regarding the same and extended communications with B. Mainali and NP team regarding same (1.1).
11/04/09	B. Mainali	3.10	1,271.00	Prepare and respond to e-mails with NP team on post-closing documents (0.2). Review and revise the right of first refusal notice and work on promissory note and review related records (2.7). Meeting with M. Garcia to discuss comments (0.2).
11/04/09	M. Garcia	5.40	1,782.00	Conference with B.Mainali regarding ROFR Notices prepared and required changes (0.2). Reviewed and analyzed prepared form notice and Operating Agreements of USTRANSACT, Affiniscape, Mosaic and Certified Equity, prepared revised ROFR notice for Merchant Cash and Capital, and correspondence with B.Mainali regarding two step offer process required (4.1). Work on ROFR Notices and prepared version comparisons for USTRANSACT, Affiniscape, Mosaic, Certified Equity and Merchant Cash and Capital regarding the same (1.1).

11/05/09	B. Mainali	0.20	82.00	Review the MCC RoFR notice and mark comments.
11/05/09	M. Garcia	4.60	1,518.00	Reviewed and Revised Right of First Refusal Notice for Merchant Cash and Capital members, relate review of Operating Agreement and preparation of final closing set with all final executed documents (4.1). Communications with NP teams regarding status and related matters (0.5).
11/06/09	B. Mainali	1.10	451.00	Review and finalize the Cynergy closing binder (1.0). Communications with NP team on the binder documents (0.1).
11/06/09	M. Garcia	1.40	462.00	Revised final closing set incorporating B.Mainali's comments and additional requests thereto (1.3). Communications with B. Mainali regarding duplication requirements and prepared request regarding the same (0.1).
11/09/09	B. Mainali	0.50	205.00	Preparation for and calls and e-mails with client and team on the excluded contracts and closing side letter and attention to the changes to the closing binder.
11/17/09	B. Mainali	0.10	41.00	Call with S. Gyorke and E. Qually on the debt documents.
11/30/09	B. Mainali	0.70	287.00	Attention to post-closing open items. E-mails with CMD team and M. Berman on the allocation of proceeds and ROFR.

33.80	12,162.00
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Phase Total:Asset Disposition

33.80	12,162.00
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TOTAL HOURS: 33.80

EXHIBIT A.2

BK03 Business Operations

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Fees</u>	<u>Description of Services</u>
11/06/09	M. Murphy	2.80	2,212.00	Review communications and position statement of insurers, communications with client and work on insurance recovery (2.4). Communications with M. Berman regarding insurance and other company matters (0.4).
11/06/09	D. Drebsky	2.30	1,989.50	Prepare for and extensive work on payment/operational issues and multiple related e-mails and calls with CFO.
11/06/09	M. Berman	1.00	815.00	Review E. Meltzer e-mail regarding John Hancock letter (0.1). Review letter (0.1). Review L. Ossolinski e-mail (0.1). Respond to L. Ossolinski regarding D&O coverage and XL Insurance claim for legal fees (0.2). Review M. Murphy e-mail regarding status of insurance claim (0.1). Communications with M. Murphy regarding insurance issues and related matters (0.4).
11/09/09	D. Drebsky	2.20	1,903.00	Extensive analysis of post-closing issues on minority interests and multiple communications with team and client regarding same.
11/10/09	M. Berman	0.40	326.00	Review Monthly Operating Report.
11/11/09	D. Drebsky	0.80	692.00	Review rejection/contracts motion per Comvest sale.
11/17/09	M. Berman	0.20	163.00	Review L. Ossolinski e-mails regarding October commission payments, FDC mistake, and related issues.
11/23/09	L. Harrington	0.50	247.50	Revise cash collateral stipulation.
		10.20	8,348.00	

Phase Total:Business Operations

10.20 8,348.00

EXHIBIT A.3

BK04 Case Administration

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Fees</u>	<u>Description of Services</u>
11/02/09	L. Harrington	0.50	247.50	Attention to Committee request for additional information related to schedules and SOFAs.
11/02/09	M. Berman	0.30	244.50	Prepare list of matters and assigned attorney and send to NP Working Group.
11/03/09	L. Harrington	0.30	148.50	Attention to Committee request for additional information related to schedules and SOFAs.
11/03/09	M. Berman	0.30	244.50	Conference call with R. Kolb and D. Drebsky regarding status, drafting a plan/disclosure statement, moving budget forward, etc.
11/03/09	M. Berman	0.50	407.50	Meeting with D. Drebsky, update on various matters including document retention, budget, Harris, cure objections and related work.
11/05/09	D. Drebsky	0.30	259.50	Follow up with UST regarding Unicorn supplemental affidavit.
11/06/09	M. Berman	0.60	489.00	Review L. Harrington draft of motion to reject ex cont (0.2). E-mail regarding deadline for filing claims (0.1). Review D. Drebsky reply and communications with D. Drebsky regarding related and other case issues (0.3).
11/09/09	M. Berman	0.30	244.50	E-mail to L. Harrington regarding contracts to be rejected (0.1). Review response (0.1). E-mail to C. Moore (0.1).
11/10/09	J. Jarrett	0.50	97.50	Prepare electronic discovery data for processing.
11/11/09	M. Berman	0.70	570.50	E-mail to L. Harrington regarding Motion to Reject Executory Contracts (0.1). Review reply and discussions with L. Harrington regarding same and other case matters (0.1). Prepare for and extended conferences with D. Drebsky and M. Murphy regarding update, status and strategy (0.5)

11/11/09	D. Drebsky	0.50	432.50	Prepare for and attend meetings with M. Murphy and M. Berman regarding status.
11/11/09	M. Murphy	1.10	869.00	Prepare for and discussions with M. Berman and D. Rebsky regarding case status, strategy and next steps (0.5). Prepare for and extended conference with S. Aschettino regarding same (0.6).
11/12/09	D. Drebsky	1.60	1,384.00	Review limited objection to cure payment procedures motion. Modify order to satisfy objection.
11/13/09	J. Jarrett	2.20	429.00	Process electronic discovery data for review in Concordance.
11/14/09	M. Berman	0.10	81.50	E-mail to C. Moore and L. Ossolinski regarding web site and UST quarterly fee.
11/16/09	M. Berman	0.10	81.50	Review e-mail from L. Ossolinski regarding payment of escrow account fees.
11/17/09	J. Jarrett	1.10	214.50	Assist with database search and maintenance.
11/18/09	J. Jarrett	1.00	195.00	Prepare excel documents in review database for production, assist with privilege search in review database.
11/19/09	D. Drebsky	2.60	2,249.00	Preparation for and extended revisions and amendments to escrow procedures order to meet objections of parties and review related records.
11/23/09	D. Drebsky	2.10	1,816.50	Preparation for and extended calls and analysis of release issues in Plan and suggested other revisions.
11/24/09	D. Drebsky	1.60	1,384.00	Prepare for and call with C. Moore and related work and e-mails regarding discovery from Team B lenders.
11/25/09	L. Harrington	0.80	396.00	Finalize, file and serve Cash Collateral Stipulation.
11/25/09	M. Berman	0.20	163.00	Review e-mail from E. Meltzer and Critical Dates calendar. Review Section 365(d)(4). Respond.
11/27/09	L. Harrington	0.30	148.50	Revise cash collateral stipulation.

11/30/09	D. Drebsky	1.20	1,038.00	Review tentatively settled cure claim objections. Calls with L. Ossolinski regarding same.
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<u>20.80</u>	<u>13,835.50</u>
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Phase Total:Case Administration

<u>20.80</u>	<u>13,835.50</u>
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EXHIBIT A.4

BK05 Claims Administration and Objections

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Fees</u>	<u>Description of Services</u>
11/06/09	D. Drebsky	2.10	1,816.50	Prepare for and multiple calls to contract cure claimants regarding possible reconciliation, related work, and records and issues analysis.
11/11/09	M. Berman	0.20	163.00	E-mail to C. Moore with copy of UCC analysis of secured claim perfection.
11/17/09	M. Berman	0.20	163.00	Review L. Harrington e-mail with comments on motion relative to disbursements from escrow (0.1). Review revised Order (0.1).
11/18/09	M. Berman	1.40	1,141.00	Review e-mail from L. Ossolinski regarding analysis of amount of Rolling Reserve in escrow and review related records (0.3). Review F. Glovsky reply (0.2). Prepare for and conference call with Purchaser regarding the right amount to Escrow for Rolling Reserves and related work and analysis (0.6). Follow-up L. Ossolinski and D. Drebsky (0.3).
11/19/09	M. Berman	0.60	489.00	Review KCC e-mail regarding bar date notice (0.1). Consider and respond (0.1). E-mail to L. Ossolinski regarding notice of assignment of merchant agreements (0.1). Review reply (0.1). Respond (0.1). E-mail to D. Drebsky (0.1).
11/20/09	M. Berman	0.20	163.00	E-mail exchange with L. Ossolinski regarding undisputed amounts in the cure escrow.
11/20/09	D. Drebsky	1.90	1,643.50	Final negotiation on amended order, and prepare for and telephonic hearing on release from escrow motion.
11/24/09	M. Berman	0.30	244.50	Review e-mail from L. Ossolinski regarding payments on assumed and assigned contracts in escrow (0.1). Review chart (0.1). Forward to D. Drebsky and L. Harrington regarding use of a Cure Resolution Notice (0.1).

11/25/09	M. Berman	0.20	163.00	Meeting with L. Harrington, discuss PPI Cure Objection, impact on QM Reserve, impact on Rolling Reserve, how to structure.
11/30/09	M. Berman	0.20	163.00	Telephone call from D. Drebsky, discuss PPI cure settlement, will e-mail to specify that QM payments come out of QM reserve.
11/30/09	M. Berman	0.30	244.50	Review Notice of Proposed Partial Cure Resolution with Pivotal Payments Inc. and note issues to review. E-mail to D. Drebsky and L. Harrington.

7.60	6,394.00
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**Phase Total:Claims
 Administration and Objections**

7.60	6,394.00
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EXHIBIT A.5

BK07 Fee/Employment Applications

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Fees</u>	<u>Description of Services</u>
11/03/09	L. Harrington	0.50	247.50	Attention to NP fee application.
11/04/09	L. Harrington	0.70	346.50	Prepare NP Second fee application.
11/04/09	D. Drebsky	0.60	519.00	Review interim fee application.
11/04/09	D. Drebsky	0.60	519.00	Review and e-mail supplemental Unicorn Affidavit to UST.
11/05/09	L. Harrington	0.50	247.50	Prepare NP second fee application.
11/06/09	L. Harrington	0.70	346.50	Prepare NP Second Fee Application.
11/09/09	L. Harrington	3.50	1,732.50	Prepare NP Second Fee Application.
11/09/09	M. Berman	0.10	81.50	Meeting with L. Harrington regarding fee application for October, 2009 work.
11/10/09	M. Berman	0.80	652.00	Review draft of NP Fee Application for October time and prepare addendum as necessary.
11/10/09	L. Harrington	4.10	2,029.50	Prepare NP Second Fee Application.
11/11/09	L. Harrington	1.00	495.00	Finalize, file and serve NP Second Fee Application.
11/17/09	D. Drebsky	0.80	692.00	Review and approve interim fee application.
11/17/09	M. Berman	0.10	81.50	Telephone call from B. Smith, inquiry about value of Unicorn Partners services, he will prepare Liquidating Trust document.
11/20/09	L. Harrington	0.20	99.00	Attention to issues related to professional fee applications.
		14.20	8,089.00	
Phase Total:Fee/Employment Applications		14.20	8,089.00	

EXHIBIT A.6

BK09 Financing

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Fees</u>	<u>Description of Services</u>
11/04/09	M. Berman	0.10	81.50	Telephone call to M. Bakst (313). Message left regarding wind-down budget and procedure to implement. E-mail follow-up.
11/04/09	M. Berman	0.60	489.00	Review e-mail from C. Moore regarding budget and use of cash collateral going forward (0.1). Meeting with D. Drebsky regarding same, issues, timing and process (0.2). Respond (0.1). Telephone call from P. Antoszyk, advise of note, discuss budget, status (0.1). E-mail to C. Moore (0.1).
11/04/09	M. Berman	0.30	244.50	E-mails to C. Moore regarding Sources and Uses (0.1). Respond (0.1). Review various e-mails with CM&D and Lenders (0.1).
11/05/09	M. Berman	0.30	244.50	Meeting with D. Drebsky regarding various matters including production of documents (letter from Proskauer counsel for Garrison), Sources & Uses, Harris issues, further efforts in Chapter 11, bar date motion.
11/05/09	M. Berman	0.40	326.00	Review e-mail from J. York regarding Sources & Uses chart, distribution to Term B. Lenders (0.2). Review spreadsheet (0.2).
11/05/09	M. Berman	0.40	326.00	Prepare for and telephone call from M. Bakst regarding swaps, extension of DIP Order (0.2). Telephone call to C. Moore, update, swaps, extension of DIP Order (0.1). Forwarding Sources & Uses to Term A Lenders' counsel (0.1).
11/07/09	M. Berman	0.40	326.00	Telephone call from C. Moore and L. Ossolinski, discuss resolution of Monthly Revenue on Friday, Lender issues, budget and prospects for agreement on use of cash collateral going forward, etc.

11/09/09	M. Berman	0.20	163.00	Call from B. Smith regarding investigation into Lender perfection and other avoidance arguments.
11/11/09	M. Berman	0.50	407.50	Prepare for and calls with C. Moore including discussion and review of , lender agreement on liquidating plan budget, continuation of right to use cash collateral, form of plan and disclosure statement, timing and content, proceed with motion to reject, insurance issue.
11/12/09	M. Berman	0.30	244.50	E-mail to C. Moore regarding cash collateral (0.1). Review reply (0.1). E-mail to M. Bakst (0.1).
11/13/09	M. Berman	0.30	244.50	Call to D. Drebsky regarding various issues including conference call with Comerica and issues covered, limited objection to cure escrow motion, etc.
11/13/09	M. Berman	0.30	244.50	Review e-mail from G. Bray regarding budget and plan and respond (0.1). Further inquiry from M. Fencer (0.1). Respond (0.1).
11/13/09	M. Berman	0.50	407.50	Prepare for and telephone call from B. Smith, discuss collateral perfection issues raised in B. Recupero letter (0.2). Review B. Recupero e-mail (0.1). Respond (0.1). Review further e-mails (0.1).
11/13/09	M. Berman	0.50	407.50	Prepare for and conference call with V. Slovak, R. Diehl, M. Bakst, C. Moore, L. Ossolinski regarding rolling reserves, \$38 Million escrow, excluded assets, SWAP Termination.

11/23/09	M. Berman	1.00	815.00	Review e-mail from M. Bakst and attached form of Stipulated Order for use of cash collateral (0.2). Review E. Meltzer e-mail regarding use a Stipulated Order (0.1). Review M. Bakst e-mail response (0.1). Forward copy of e-mail to C. Moore (0.1). Discuss e-mail with D. Drebsky and L. Harrington (0.2). Review D. Drebsky e-mail regarding end date (0.1). Respond (0.1). E-mail to D. Drebsky and L. Harrington regarding timing of use of cash collateral (0.1).
11/23/09	M. Berman	0.40	326.00	Review D. Drebsky e-mail and suggested fax to Paragraph 3 of Stipulated Order (0.1). Review M. Fencer reply (0.1). Review D. Drebsky follow-up (0.1). Respond (0.1).
11/24/09	M. Berman	0.40	326.00	Review e-mail from J. York with comments on Cash Collateral Order (0.2). Discuss with D. Drebsky and L. Harrington regarding incorporation (0.2).
11/26/09	M. Berman	0.20	163.00	Review L. Harrington e-mail and revised Stipulated Order for Use of Cash Collateral. Edit further and send by e-mail to L. Harrington and D. Drebsky.

7.10	5,786.50
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Phase Total:Financing

7.10	5,786.50
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EXHIBIT A.7

BK10 Litigation

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Fees</u>	<u>Description of Services</u>
11/02/09	D. Drebsky	1.60	1,384.00	Work on ediscovery matters.
11/02/09	R. Christmas	1.40	1,036.00	E-mails with RVM and clients regarding status of discovery process (.4). E-mails with counsel for Term B parties regarding same (.3). Review and respond to e-mails regarding possible stay violation by Tribul (.2). Review e-mail from M. Berman regarding outline of case administration and litigation matters to be accomplished (.3). E-mails with L. Ossolinski regarding communications with RVM (.2).
11/02/09	C. Mason	0.30	229.50	E-mail from C. Moore (0.1). E-mail from S. Aschettino (0.1). E-mail from M. Berman (0.1).
11/03/09	R. Christmas	0.80	592.00	e-mails with L. Ossolinski regarding payment to RVM and work going forward (.4). E-mails with RVM regarding same (.2). Review and respond to e-mails from S. Aschettino regarding discovery (.2).
11/03/09	C. Mason	0.50	382.50	Communications with S. Aschettino (0.1). Telephone conference with R. Christmas (0.1). E-mail from R. Christmas (0.1). E-mail from S. Aschettino(0.1). E-mail from R. Christmas (0.1).
11/04/09	R. Christmas	0.80	592.00	E-mails with RVM regarding work going forward (.4). Conference call with RVM regarding same (.4).
11/04/09	W. Elegbe	1.00	210.00	Conference call with team (attorneys) and vendor to determine data format post searching and culling -- correspondence with R. Christmas regarding same
11/05/09	D. Drebsky	1.10	951.50	Work on e-discovery matters and scope of review.

11/05/09	R. Christmas	1.20	888.00	Review e-mail from RVM regarding questions concerning searches (.2). Prepare e-mail to RVM regarding same (.4). Review e-mail from RVM regarding ex parte request by Term B parties (in October) for C. Moore documents (.2). e-mails with D. Drebsky and C. Mason regarding same (.3). Conference with D. Drebsky regarding C. Moore request (.1).
11/05/09	C. Mason	0.50	382.50	Multiple e-mails from R. Christmas (0.2). E-mail from D. Drebsky (0.1). E-mail from D. McCarthy (0.1). Telephone call from R. Christmas (0.1).
11/08/09	W. Elegbe	0.50	105.00	Correspondence with forensics vendor -- receipt of search reports from term b collection and searching -- review reports/analyze reports
11/09/09	W. Elegbe	1.50	315.00	Correspondence with forensics vendor (0.5) -- receipt of data -- transfer data to network (0.3) -- and perform data analysis (0.5) -- generate processing specifications (0.2)
11/09/09	R. Christmas	0.60	444.00	Review and respond to questions from RVM (.2). E-mail to C. Moore regarding discovery (.3). Telephone conference with RVM regarding status of discovery (.1).
11/09/09	M. Berman	0.10	81.50	E-mail to D. Drebsky and L. Harrington regarding Wind-Down Budget.
11/10/09	M. Berman	0.20	163.00	Review fax from B. Recupero regarding issues with secured lender perfection.
11/10/09	D. Drebsky	0.50	432.50	Response to new e-discovery request.
11/10/09	W. Elegbe	1.00	210.00	Additional data processing -- generate reports of processed data (0.5) -- create database (0.5)

11/10/09	R. Christmas	1.70	1,258.00	Review e-mail from RVM regarding completed searches and log (.1). Review of search log (.3). E-mail to G. Cancilla at RVM regarding question about custodians (.2). Review RVM's response (.1). E-mail of log to counsel for Term B/Moneris parties (.1). Review and respond to e-mail from C. Caparelli regarding review of search results and depositions (.4). Review letter from J. Mastrogiovanni regarding production (.3). Forward letter to D. Drebsky with comments (.2).
11/10/09	C. Mason	0.60	459.00	E-mail from L. Harrington (0.1). Discussion with M. Murphy regarding litigations, insurance and related company matters (0.2). E-mail to L. Harrington (0.1). E-mail from L. Harrington (0.1). Telephone conference with M. Berman's (0.1).
11/11/09	R. Christmas	1.50	1,110.00	E-mail to L. Ossolinski regarding letter from Term B parties (.1). Request and review deposition transcript portion relating to daily recap documents (.4). Telephone conference with L. Ossolinski regarding daily recap reports (.1). Review and respond to e-mail from L. Ossolinski regarding same (.3). Review e-mail regarding proposed Scheduling Order, and Order (.3). Review e-mails regarding subpoenas to former employees (.3).
11/11/09	C. Mason	0.30	229.50	E-mail from M. Berman (0.1). E-mail to M. Berman, M. Murphy, R. Christmas (0.1). Telephone conference with F. Penski regarding New York litigation (0.1).
11/11/09	M. Berman	0.40	326.00	Review e-mail from S. Aschettino regarding M. Kennedy subpoena (0.1). E-mail to NP Working Group (0.1). Review D. Drebsky and reply (0.1). Review C. Mason e-mail and further discussion with M. Murphy regarding litigation matters (0.1).

11/12/09	D. Drebsky	1.60	1,384.00	Work on e-discovery production regarding supplemental requests.
11/12/09	R. Christmas	1.20	888.00	Review production information to respond to letter from Term B parties (.4). Prepare e-mail to counsel for Term B parties in response to their letter of November 11 (.5). E-mails regarding processing of data collected from RVM (.3).
11/12/09	W. Elegbe	0.50	105.00	Correspondence with R. Christmas regarding progress with processing -- discuss review strategy (0.5).
11/12/09	M. Berman	0.20	163.00	Telephone call from F. Penski and C. Mason regarding Tribul/Second Source litigation.
11/12/09	J. Headley	2.80	546.00	Begin processing e-discovery materials for review and production, per W. Elegbe.
11/12/09	C. Mason	0.30	229.50	E-mail from F. Penski (0.1). Telephone conference with M. Berman, F. Penski (0.2).
11/13/09	R. Christmas	0.60	444.00	Direction to W. Elegbe regarding RVM data (.1). Review and respond to e-mails regarding same (.3). Review and respond to e-mails from L. Ossolinski regarding Daily Recap files (.2).
11/13/09	W. Elegbe	2.50	525.00	Create review database and modify database fields (0.5) -- upload initial data set for review - add custodian information to specified fields in database (1.0) -- generate list of terms for privileged search (0.5) -- run searches and filter out potentially privileged documents -- alerted R. Christmas as to the location of the documents (0.5).
11/13/09	J. Headley	0.80	156.00	Assist with preparation of e-discovery materials for review and production, per W. Elegbe.
11/14/09	W. Elegbe	2.90	609.00	Upload additional dataset -- add custodian information to database -- index database and run searches on new data set.

11/15/09	W. Elegbe	2.80	588.00	Upload additional dataset -- add custodian information to database -- index database and run searches on new data set.
11/16/09	R. Christmas	1.50	1,110.00	Review materials from client regarding Daily Recap files (.4). Review e-mail from J. Mastrogiovanni regarding discovery (.1). Review materials to respond to questions by Term B/Moneris parties (.4). Prepare e-mail to counsel for Term B/Moneris parties regarding Daily Recap documents and related questions (.2). Prepare correspondence to Term B/Moneris parties regarding delivery of copies of Daily Recap documents (.2). Direction to W. Elegbe regarding production review (.1). E-mail to L. Ossolinski regarding final part of RVM engagement (.1).
11/16/09	W. Elegbe	2.50	525.00	Upload final data volume to database (1.0) -- modify database and add custodian information to specified fields (0.5) -- re-index database and prepare database for searches (0.5) -- generate search strings from names provided by R. Christmas (0.5).
11/16/09	J. Hayes	0.70	469.00	Multiple communications with S. Corvino and S. Aschettino regarding Kassup executed settlement agreement, communication with G. Genth regarding settlement agreement.
11/17/09	J. Hayes	0.90	603.00	Multiple communications with S. Corvino, S. Aschettino and G. Genth regarding Kassup settlement documents.
11/17/09	E. Newman	1.50	285.00	Run comprehensive searches within database and work with R. Christmas in regards to setting up database review schematics

11/17/09	R. Christmas	8.40	6,216.00	Review of documents for privilege and production (6.7). Review e-mail from counsel to Moneris regarding witnesses (.3). E-mail to C. Moore and D. Drebsky regarding same (.3). Review responses from C. Moore and D. Drebsky, and reply to same (.4). Prepare e-mail to S. Aschettino regarding witnesses, and review his response (.4). E-mail to L. Ossolinski regarding Merchant Reserve Acknowledgement documents (.1). Conference with C. Mason regarding subpoena issues (0.2).
11/17/09	W. Elegbe	3.10	651.00	Correspondence with R. Christmas and E. Newman (0.3) -- re-generate new search list with names provided by R. Christmas (0.2) -- re-index database after final data upload (0.5) -- run searches against initial data set (2.1).
11/17/09	C. Mason	0.40	306.00	E-mail from C. Moore (0.1). E-mail from R. Christmas (0.1). Telephone conference with R. Christmas regarding subpoena issues (0.2).
11/18/09	D. Drebsky	1.60	1,384.00	Prepare for and participate in conference call with L. Ossolinski, Harris Bank and its attorneys, et. al. regarding reserve matter and motion to release.
11/18/09	W. Elegbe	4.40	924.00	Run comprehensive search terms for privileged documents (0.2) -- run individual terms and saved snapshot for hit-highlighting (0.2) -- generate search term list per R. Christmas (4.0).

11/18/09	R. Christmas	8.00	5,920.00	Prepare e-mail to W. Elegbe regarding privilege issues (.3). Review and respond to e-mails from W. Elegbe regarding same (.2). Review of documents for privilege and production (6.4). E-mail to D. Spelfogel regarding request for deposition of M. Paladini (.1). Prepare e-mail to counsel for Moneris regarding 30(b)(6) request (.4). Review e-mail from J. Mastrogiovanni regarding subpoenas to CM&D/Moore/Ossolinski (.1). e-mail to D. Drebsky regarding same (.1). Review sample Merchant Reserve documents (.2). E-mail to counsel for Moneris and Term B parties regarding same (.1). Review correspondence between counsel for Term B Parties and Harris/Moneris regarding discovery (.1).
11/19/09	R. Christmas	9.00	6,660.00	E-mails regarding subpoena on consulting firm (.3). Continued review of documents for production (8.7).
11/20/09	R. Christmas	6.60	4,884.00	Continued review of documents for production (6.6).
11/23/09	D. Drebsky	1.40	1,211.00	Review and e-mail revisions to cash collateral order and prepare for and calls regarding same.
11/23/09	R. Christmas	5.30	3,922.00	E-mail exchange with D. Spelfogel regarding Paladini deposition (.3). Respond to telephone calls and e-mails from Committee's financial advisory T. Hurley (Deloitte) (.4). Continued review of documents for production (4.6).
11/24/09	M. Berman	0.20	163.00	Review Notices of Subpoenas and diary.

11/24/09	R. Christmas	5.50	4,070.00	E-mails with counsel for Term B/Moneris parties regarding discovery (.6). Review and respond to e-mails regarding Committee's request for information (.8). Request information from RVM regarding Committee request (.1). Telephone call from Deloitte regarding Committee's request for e-mail and data access (.2). Continued review of documents for production (3.8).
11/24/09	C. Mason	0.10	76.50	E-mail from R. Christmas. E-mail from L. Ossolinski. E-mail from R. Christmas (2x).
11/25/09	R. Christmas	2.40	1,776.00	Continued review of documents for production (2.4).
11/27/09	R. Christmas	7.80	5,772.00	Continued review of documents for production (7.8).
11/30/09	D. Drebsky	1.60	1,384.00	Work on discovery for Term B's documentary (12/7).
11/30/09	R. Christmas	4.90	3,626.00	E-mails regarding last known employee addresses (.2). Conference with D. Drebsky regarding CMD production (.1). Review search log prepared by RVM, for Deloitte's use (.2). E-mail to Deloitte regarding Committee requests (.2). E-mails with L. Ossolinski and RVM regarding final branch of RVM archive engagement (.4). Continued review of documents for production (3.8).
11/30/09	W. Elegbe	1.00	210.00	Correspondence with R. Christmas -- revise search term snapshot -- re-map drive for snapshot file -- run searches to ensure hit highlighting remains.

113.10	69,566.50
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Phase Total:Litigation

113.10	69,566.50
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EXHIBIT A.8

BK11 Plan and Disclosure Statement

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Fees</u>	<u>Description of Services</u>
11/11/09	M. Berman	1.00	815.00	Begin draft of Plan.
11/13/09	L. Harrington	0.70	346.50	Attention to liquidating plan and disclosure statement.
11/14/09	M. Berman	0.10	81.50	E-mail to G. Bray and B. Smith regarding drafting of Liquidation Trust.
11/14/09	M. Berman	5.00	4,075.00	Work on Plan and send to D. Drebsky and L. Harrington. Review B. Mainali e-mail and Jones Day article about IT Group decision on right of first refusal and related e-mail analysis and questions to B. Mainali.
11/14/09	L. Harrington	1.50	742.50	Attention to liquidating plan and disclosure statement.
11/15/09	L. Harrington	1.00	495.00	Attention to liquidating plan and disclosure statement.
11/16/09	D. Drebsky	1.10	951.50	Review draft of Liquidating Plan.
11/16/09	L. Harrington	1.20	594.00	Revise draft of liquidating plan.
11/17/09	M. Berman	2.90	2,363.50	Work on revisions to Plan (2.6). E-mail to C. Moore and L. Ossolinski for review and comment (0.1). Review e-mail from B. Recupperio regarding copy of Plan to use in drafting Liquidating Trust (0.1). Reply (0.1).
11/17/09	L. Harrington	0.60	297.00	Revise draft of liquidating plan.
11/18/09	M. Berman	1.20	978.00	Review e-mail from C. Moore and revise Plan (1.0). E-mail plan to Lenders (0.1). E-mail to C. Moore (0.1).
11/18/09	M. Berman	1.60	1,304.00	Begin work on Disclosure Statement.
11/18/09	M. Berman	0.20	163.00	Telephone call from B. Smith, discuss plan and liquidating trust, also discuss loan to liquidating trustee.
11/19/09	M. Berman	0.60	489.00	Telephone conference with G. Bray, message left (0.1). E-mail to G. Bray (0.1). Meeting with D. Drebsky regarding cash collateral and status of resolution of issues on form of order for escrow (0.2). Review e-mail from D. Drebsky regarding talk with M. Bakst about cash collateral (0.1). Telephone call to C. Moore, message left (0.1).

11/20/09	M. Berman	0.40	326.00	Review e-mail from L. Mandel regarding plan issues and requesting call (0.1). E-mail to C. Moore (0.1). Review e-mail from D. Drebsky (0.1). Reply to L. Mandel (0.1).
11/20/09	D. Drebsky	1.40	1,211.00	Review plan draft and liquidating trust document samples.
11/23/09	M. Berman	0.80	652.00	Telephone call from B. Smith, M. Fencer and B. Recuperio, discuss proposed cash collateral order, plan provisions and issues and related client communications.
11/24/09	M. Berman	0.50	407.50	Prepare for and participate in conference with C. Moore, D. Drebsky and L. Ossolinski regarding preparation for 2 p.m. call on Plan issues.
11/24/09	M. Berman	0.80	652.00	Attend conference call with Cynergy, Lenders counsel and Creditors' Committee counsel regarding Plan issues.
11/24/09	M. Berman	0.20	163.00	Follow-up discussion with D. Drebsky regarding POR, open issues.
11/30/09	M. Berman	0.60	489.00	Review Creditors' Committee revisions to Plan.

23.40	17,596.00
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Phase Total: Plan and Disclosure Statement

23.40	17,596.00
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EXHIBIT A.9

BK15 Meetings of and Communications with Creditors

<u>Date</u>	<u>Timekeeper</u>	<u>Hours</u>	<u>Fees</u>	<u>Description of Services</u>
11/04/09	M. Berman	0.30	244.50	Review e-mail from D. Dehmer regarding The Beach Club issues with cure amount (0.1). E-mails to and from L. Harrington who will follow-up (0.1). E-mail to D. Dehmer (0.1).
11/12/09	M. Berman	0.10	81.50	Review e-mails from L. Ossolinski and E. Meltzer regarding Form 941 requested by IRS.
11/13/09	M. Berman	0.50	407.50	Review e-mail from L. Ossolinski regarding America One cure amount and escrow (0.1). Forward to and discuss with D. Drebsky and L. Harrington (0.2). Review L. Harrington reply (0.1). E-mail to L. Ossolinski (0.1).
11/16/09	M. Berman	0.50	407.50	Further e-mail from R. Diehl regarding Gastro litigation complaints (0.1). E-mail to M. Levin (0.1). Review L. Ossolinski e-mail and respond (0.1). Further e-mail from M. Levin and forward to R. Diehl and further e-mail exchange regarding First Data Reserve account, etc (0.2).
11/16/09	M. Berman	0.40	326.00	Review e-mail from L. Ossolinski with bank account information requested by Comerica (0.1). Respond and follow-up to get specific information (0.1). E-mail bank account information to Comerica counsel (0.1). Further follow-up e-mails (0.1).
11/16/09	M. Berman	0.10	81.50	Review e-mail from L. Ossolinski regarding delay in payment of October commission.
11/20/09	M. Berman	0.30	244.50	Review e-mail regarding common copier lease (0.1). E-mail to L. Ossolinski regarding verification (0.1). E-mail to A. Agrawal regarding same (0.1).
11/20/09	D. Drebsky	0.60	519.00	Calls with 2 creditors regarding status of claims.

11/23/09	M. Berman	0.20	163.00	Telephone call to Maryann at Scott Marcus regarding Cannon Copier Lease, November payment.
11/24/09	D. Drebsky	1.20	1,038.00	Calls with creditors regarding draft Plan and issues related thereto and prepare regarding same.

4.20	3,513.00
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**Phase Total: Meetings of and
Communications with Creditors**

4.20	3,513.00
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TOTAL HOURS: 270.60

TOTAL FEES: \$174,815.50

TIMEKEEPER SUMMARY

<u>Timekeeper</u>	<u>Rate</u>	<u>Hours</u>	<u>Fees</u>
<u>Partners</u>			
M. Berman	815.00	51.20	41,728.00
M. Murphy	790.00	3.90	3,081.00
D. Drebsky	865.00	40.60	35,119.00
R. Christmas	740.00	69.20	51,208.00
J. Hayes	670.00	1.60	1,072.00
C. Mason	765.00	3.00	2,295.00
Partners Totals		169.50	134,503.00
<u>Associates</u>			
L. Harrington	495.00	67.50	33,412.50
<u>Legal Assistant</u>			
J. Jarrett	195.00	4.80	936.00
J. Headley	195.00	3.60	702.00
E. Newman	190.00	1.50	285.00
W. Elegbe	210.00	23.70	4,977.00
Legal Assistant Totals		33.60	6,900.00
Total All Timekeepers:		<u>270.60</u>	<u>\$174,815.50</u>

EXHIBIT B

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:

CYNERGY DATA, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 09-11032 (KG)

Jointly Administered
Related Docket No. 15

**ORDER GRANTING APPLICATION FOR ORDER PURSUANT TO
11 U.S.C. §§ 327(a) AND 329 AND BANKRUPTCY RULES 2014 AND 2016
AUTHORIZING THE EMPLOYMENT AND RETENTION OF
NIXON PEABODY LLP AS COUNSEL FOR THE DEBTORS**

Upon the Application of the above-referenced debtors and debtors-in-possession (the "Debtors"), for an order, pursuant to § 327(a) of title 11, United States Code (the "Bankruptcy Code"), authorizing the Debtors to employ and retain Nixon Peabody LLP as its counsel, *nunc pro tunc* to the Petition Date (the "Application"); and upon the affidavit of Dennis J. Drebsky, Esq., a shareholder of the firm, (the "Drebsky Affidavit") and annexed to such Application; and it appearing that the Court has jurisdiction to consider the Application; and it appearing that Nixon Peabody LLP is a "disinterested" person within the meaning of § 101(14) and 327(a) of the Bankruptcy Code; and that the relief requested in the Application is in the best interests of the Debtors, their creditors, and all parties-in-interest; and it appearing that due and appropriate notice of the Application has been given under the circumstances; and it appearing that no other or further notice need be given; and upon the Application and all of the proceedings before the Court; and after due deliberation; and sufficient cause appearing therefor, it is

¹ The Debtors are the following entities (with the last four digits of their federal tax identification numbers in parentheses): Cynergy Data, LLC (8677); Cynergy Data Holdings, Inc. (8208); Cynergy Prosperity Plus, LLC (4265). The mailing address for the Debtors is 30-30 47th Avenue, 9th Floor, Long Island City, New York 11101.

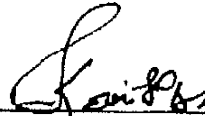
ORDERED, that the Application is granted; and it is further

ORDERED, that in accordance with § 327(a) of the Bankruptcy Code, the Debtors be, and hereby are, authorized to employ and retain Nixon Peabody LLP as their counsel as of the Petition Date to perform all of the services set forth in the Application, on the terms set forth in the Application and in the Drebsky Affidavit; and it is further

ORDERED, that the compensation to be paid Nixon Peabody LLP for professional services rendered and expenses incurred shall be as determined by this Court upon proper application therefor pursuant to §§ 330 and 331 of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure or as otherwise prescribed by any Order of this Court setting forth the procedures for the payment of professionals in this case.

Dated: Wilmington, Delaware

Sept. 15, 2009



UNITED STATES BANKRUPTCY JUDGE

EXHIBIT C

BIOGRAPHIES

Mark N. Berman. Mr. Berman is a member of the firm's Financial Restructuring & Bankruptcy Practice Group and supports the Securitization and Structured Finance Team, the Leveraged Finance Team and the Public Finance Group. Over his more than 30 year career, Mr. Berman has represented virtually every kind of interest that might be involved with a financially troubled business or individual. Mr. Berman is admitted to practice in the Commonwealth of Massachusetts, the State of New York, the United States District Court for the District of Massachusetts, the Southern District and Eastern Districts of New York, the United States Court of Appeals for the First Circuit, and the Supreme Court of the United States of America.

Dennis J. Drebsky. Over his more than 30 year career, Mr. Drebsky has concentrated his practice on commercial and bankruptcy litigation and is often retained for his skills as a negotiator. He also handles acquisitions and sales of companies in Chapter 11, as well as nonbankruptcy workouts and reorganizations. Mr. Drebsky is admitted to practice in the State of New York.

Michael P. Murphy. Mr. Murphy is a partner at Nixon Peabody and is Chair of the firm's Insurance and Reinsurance Practice. Mr. Murphy represents clients in a wide range of business litigation and counseling, with particular emphasis on reinsurance and insurance-related litigation and arbitration. Mr. Murphy is admitted to practice in the State of New York.

Robert H. Christmas. Mr. Christmas is partner at Nixon Peabody and practices business insolvency law and complex commercial litigation. Mr. Christmas represents secured lenders, manufacturers, lessors and other real estate owners, indenture trustees, and other creditors in bankruptcy proceedings of all sizes. Mr. Christmas is admitted to practice in New York, the Southern, Northern and Eastern districts of New York, and the courts of appeals for the Second, Seventh, and Eleventh circuits.

Christopher M. Mason. Mr. Mason's practice focuses on litigation and appeals, particularly class actions, and on arbitration, mediation, and other alternative dispute resolution techniques, as well as litigation prevention and avoidance. Mr. Mason has experience in securities and consumer class actions; shareholder derivative suits; telecommunications cases; antitrust; banking, finance, and international trade cases; bankruptcy and workouts; copyright, trademark, computer software, Internet, and new media issues; energy and project finance disputes; First Amendment litigation; consumer affairs, marketing, and advertising issues; employment law; and Securities and Exchange Commission, Food and Drug Administration, Department of Justice, and other governmental investigations.

Lee Harrington. Mr. Harrington is a member of the firm's Financial Restructuring & Bankruptcy practice. His practice is concentrated primarily on bankruptcy, reorganization, and commercial lending in which he has represented various parties in negotiated workouts, assignments for the benefit of creditors, commercial litigation matters, and all aspects of Chapter 11 and Chapter 7 cases. Mr. Harrington is admitted to practice in Massachusetts, New York, Pennsylvania, Delaware and New York, as well as the United States district courts for the districts of Massachusetts, Southern New York, Eastern Pennsylvania, and Delaware.

Bipul K. Mainali. Mr. Mainali is a member of the firm's Leveraged Buyouts and Private Equity teams. His practice focuses on corporate transactions pertaining to all aspects of the creation and implementation of leveraged buyouts, mergers and acquisitions, representing both acquiring and selling entities, and other strategic investment transactions. Mr. Mainali is admitted to practice in New York, and Delhi, India.

EXHIBIT D

For Charges and Disbursements:

<u>Date</u>	<u>Description</u>	<u>Amount</u>
10/04/09	Lightspeed Invoice # 64892 dated 10/4/09 messenger service from Nixon Peabody Llp 437 Madison Ave to Milbank I Chase Manhattan Plz 9/30/2009 6:30:00 PM	12.95
10/04/09	Lightspeed Invoice # 64892 dated 10/4/09 messenger service from Nixon Peabody Llp 437 Madison Ave to Milbank I Chase Manhattan Plz 10/2/2009 1:16:00 PM Christmas	12.95
10/06/09	Tel A Car of New York, LLC 10/6/09 Inv#884234 DREBSKY DENNIS 2 PENN PLAZA MH 10018 to 30 HUDSON ST JERSEY CITY NJ 07310 Sep 25 2009 7:35AM	53.04
10/12/09	Premiere Global - ReadyConference	1.55
10/13/09	Premiere Global - ReadyConference	1.36
10/20/09	VENDOR: Drebsky, Dennis INVOICE#: DRE110309 DATE: 11/3/2009 10/20/09:Delaware:Filing Fees:participation in Court hearing	72.00
10/20/09	VENDOR: Drebsky, Dennis INVOICE#: DRE110309 DATE: 11/3/2009 10/20/09:Delaware:Filing Fees:participation in Court hearing	30.00
10/20/09	Premiere Global - ReadyConference	1.02
10/20/09	VENDOR: Mason, Christopher INVOICE#: MAS1130091 DATE: 11/30/2009 10/20/09::Cab:Worked late, taxi home (split between two clients)	2.50
11/02/09	VENDOR: Reed Elsevier Inc. - Philadelphia; INVOICE#: 2009100006679901; DATE: 11/2/2009 - Electronic Court Filing Service	43.46
11/03/09	Telephone 11/3/2009	0.42
11/04/09	Telephone 11/4/2009	0.06
11/05/09	Telephone 11/5/2009	0.06
11/05/09	Telephone 11/5/2009	0.42
11/06/09	Telephone 11/6/2009	0.06
11/06/09	Telephone 11/6/2009	0.06
11/06/09	Telephone 11/6/2009	0.06
11/06/09	Telephone 11/6/2009	0.12
11/09/09	Telephone 11/9/2009	0.12
11/09/09	Telephone 11/9/2009	0.42
11/10/09	Photocopy	0.20
11/10/09	Telephone 11/10/2009	0.18
11/12/09	Telephone 11/12/2009	0.48
11/14/09	Process electronic discovery files (email) for review and production, per R. Christmas. [5.5 GB]	3712.50

11/17/09	Federal Express; Invoice 941381226; Airbill 798147073461; Date 11/17/2009; Shipped by Jeffery Moore to Wright, Constable & Skeen LLP. Robert W. Hesselbacher, Jr. Es 100 N CHARLES ST FL 16 BALTIMORE MD 21201 US	6.85
11/18/09	Telephone 11/18/2009	0.12
11/18/09	Telephone 11/18/2009	0.24
11/18/09	Postage 11/18/2009	0.88
11/19/09	Telephone 11/19/2009	0.06
11/23/09	Telephone 11/23/2009	0.12
11/23/09	Telephone 11/23/2009	0.06
11/24/09	VENDOR: Mason, Christopher INVOICE#: MAS112409 DATE: 11/24/2009 04/20/09::Cab:Worked late, taxi home (split between three clients)	1.95
11/25/09	Telephone 11/25/2009	0.48
11/25/09	Telephone 11/25/2009	0.54
11/25/09	Telephone 11/25/2009	0.12
11/30/09	Telephone 11/30/2009	0.18
11/30/09	Telephone 11/30/2009	0.12
11/30/09	Telephone 11/30/2009	0.18
11/30/09	VENDOR: Mason, Christopher INVOICE#: MAS1130091 DATE: 11/30/2009 06/02/09::Cab:Worked late, taxi home (split between three clients)	1.00
11/30/09	VENDOR: Mason, Christopher INVOICE#: MAS113009 DATE: 11/30/2009 04/29/09::Cab:Worked late, taxi home (split between four clients)	2.00
11/30/09	VENDOR: Mason, Christopher INVOICE#: MAS113009 DATE: 11/30/2009 04/30/09::Cab:Worked late, taxi home (split between three clients)	1.27
11/30/09	VENDOR: Mason, Christopher INVOICE#: MAS113009 DATE: 11/30/2009 05/12/09::Cab:Trip to Queens for client, Cynergy.	19.00
11/30/09	VENDOR: Mason, Christopher INVOICE#: MAS113009 DATE: 11/30/2009 05/12/09::Cab:Trip back to NYC from Queens for client, Cynergy.	14.00
TOTAL CHARGES AND DISBURSEMENTS		\$3,995.16

For Charges and Disbursements:

<u>Date</u>	<u>Description</u>	<u>Amount</u>
11/02/09	Telephone 11/2/2009	0.18
11/02/09	Telephone 11/2/2009	0.06
11/09/09	Telephone 11/9/2009	0.12
11/09/09	Telephone 11/9/2009	0.06
11/16/09	Telephone 11/16/2009	0.06
TOTAL CHARGES AND DISBURSEMENTS		\$0.48

CERTIFICATE OF SERVICE

I, Evelyn J. Meltzer, hereby certify that on the 10th day of December, 2009, I caused the foregoing **Third Monthly Application of Nixon Peabody LLP, counsel for the Debtors, for Allowance of Compensation for Services Rendered and Reimbursement of Expenses incurred from November 1, 2009 through November 30, 2009** to be served upon the following individuals listed by first-class mail, postage prepaid.

Office of the United States Trustee
844 King Street
Room 2313
Wilmington, Delaware 19801
Attn: Thomas P. Tinker, Esq.

Cynergy Data, LLC
30-30 47th Avenue
9th Floor
Long Island City, NY 11101

Ashby & Geddes
500 Delaware Avenue, 8th Floor
P.O. Box 1150
Wilmington, DE 19899
Gregory Alan Taylor, Esq.
Karen B. Skomorucha, Esq.

/s/ Evelyn J. Meltzer
Evelyn J. Meltzer