

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

_____)	
In re:)	Chapter 11
)	
CD LIQUIDATION CO., LLC, et al.	)	Case No. 09-13038 (KG)
)	
Debtors.	)	(Substantively consolidated)
)	
_____)	
CHARLES M. MOORE, as trustee of the)	
CD LIQUIDATION TRUST,)	
)	
Plaintiff,)	
)	
v.	)	Adv. Pro. No. 11-51636 (KG)
)	
JOHN MARTILLO,)	
)	
Defendant.	)	Hearing Date: TBD
_____	)	Objection Deadline: August 22, 2013 at 4 p.m. (ET)

**MOTION OF CHARLES M. MOORE, TRUSTEE OF THE CD LIQUIDATION TRUST,
FOR ORDER PURSUANT TO 11 U.S.C. § 105(A) AND BANKRUPTCY RULE 9019
APPROVING SETTLEMENT AGREEMENT**

Charles M. Moore, Trustee of the CD Liquidation Trust (the “Trustee”), for the trust and on behalf of the bankruptcy estates of CD Liquidation Co., LLC, CD Liquidation Co. Plus, LLC, Cynergy Data, LLC, Cynergy Data Holdings, Inc, and Cynergy Prosperity Plus, LLC (collectively, the “Debtors”), hereby submits this motion (the “Motion”) for entry of an order pursuant to section 105(a) of the United States Bankruptcy Code (the “Bankruptcy Code”) and Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), approving the Settlement Agreement in the form attached hereto as **Exhibit A** (the “Settlement”) which will resolve the above captioned Adversary Proceeding. In support of this Motion, Trustee respectfully states as follows:



Preliminary Statement

Trustee, instituted Adversary Proceeding No. 11-51636 (KG) in this Court (the “Lawsuit”) alleging claims against John Martillo (“Martillo”) for actions Martillo took as a shareholder and director of the Debtors. Martillo has denies all of the allegations made by Trustee in the Lawsuit. Trustee and Martillo have engaged in meaningful negotiations to consensually resolve the claims asserted in the Lawsuit, which have culminated in the terms captured in the Settlement Agreement and will result in Martillo paying \$3,750,000.00 to the CD Liquidation Trust (“Trust”) established pursuant to the Joint Plan of Liquidation of CD Liquidation Co., LLC, CD Liquidation Co. Plus, LLC and Cynergy Data Holdings, Inc. (the “Plan”).

Jurisdiction and Venue

1. This Court has subject matter jurisdiction to consider and determine this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory predicates for this Motion are section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019.

Background

3. On September 1, 2009, (“Petition Date”) Debtors filed their voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

4. On December 21, 2010, this Court confirmed the Plan which created the Trust.

5. On March 28, 2009, Trustee filed the Lawsuit against Martillo seeking the avoidance of \$47.25 million paid to Martillo for the redemption of his shares in CPS and CD Holdings.

6. Martillo denied all claims asserted in the Lawsuit, and the parties have litigated the claims in the Lawsuit for more than two years without resolution.

7. Trustee and Martillo have engaged in arms-length negotiations in order to resolve the Lawsuit consensually in order to avoid further expense, inconvenience and uncertainty associated with litigation (the "Negotiations").

8. Additional parties in interest were included in the Negotiations so as to avoid future litigation arising from the same transactions or occurrences as those underlying the Lawsuit. The additional parties in interest include Comerica Bank, for itself and as Senior First Lien Lender, Prosperity Lender, agent on behalf of the Senior First Lien Lenders, and as agent on behalf of the Prosperity Lenders; (c) Wells Fargo Capital Finance, LLC f/k/a Wells-Fargo Foothill, LLC, for itself and as Senior First Lien Lender (Comerica Bank and Wells Fargo Capital Finance, LLC f/k/a Wells-Fargo Foothill, LLC are hereinafter collectively referred to as "Releasing Lenders"); (d) Dymas Funding Company LLC, for itself and as agent on behalf of the Junior First Lien Lenders and as agent on behalf of the Second Lien Lenders; (e) Abelco Finance LLC, for itself and as Junior First Lien Lender and as Second Lien Lender; (f) A3 Funding LP, for itself and as Junior First Lien Lender and as Second Lien Lender; (g) Garrison Credit Investments I LLC, for itself and as Junior First Lien Lender; and (h) Garrison Credit Opportunities, L.P., for itself and as Junior First Lien Lender (Dymas Funding Company LLC,

Abelco Finance LLC, A3Funding LP, Garrison Credit Investments I LLC, and Garrison Credit Opportunities, L.P. are hereinafter collectively referred to as "Releasing Creditors").

9. This Motion seeks approval of the Settlement in order to avoid incurring additional expenses as well as the inconvenience and uncertainty of litigation by resolving and settling all outstanding issues and claims among the parties.

10. The Settlement provides that upon entry of a final order approving this Motion, Trustee, Releasing Lenders and Releasing Creditors shall execute releases substantially in the form of the releases attached as Exhibits to the Settlement (the "Releases") which provides for mutual releases by the Trustee, Releasing Creditors, and Martillo for any and all claims that are a part of the Lawsuit or could have been a part of the Lawsuit in return for payment from Martillo to the Trust in the amount of \$3,750,000.00 (the "Settlement Amount").

11. The Settlement provides that within 4 business days of receiving notice from counsel for the Trustee ("Trustee Counsel") that Trustee Counsel has received executed copies of the Releases from the Trustee and Releasing Creditors, Martillo will cause a wire transfer of the Settlement Amount to a Trustee controlled account (the "Settlement Payment") and will provide electronic copies of the Releases signed by himself to Trustee Counsel.

12. The Settlement further provides that upon receipt of the Settlement Payment by Trustee and exchange of the copies of the signed Releases the parties will all be provided with original signatures from one another to the Releases and will stipulate to the dismissal of the Lawsuit with prejudice and without costs or fees (the "Dismissal").

11. The Settlement provides that prior to the Dismissal, the Settlement Payment is to be held by the Trustee in trust for the benefit of Martillo and upon Dismissal, the Settlement Payment can be distributed to the beneficiaries of the Trust.

Relief Requested

12. By this Motion, and in accordance with section 105(a) of the Bankruptcy Code and Bankruptcy Rule 9019, the Trustee respectfully requests this Court to enter an Order, (i) approving the Settlement and (ii) authorizing the Trustee to take any and all actions necessary to effectuate the Settlement.

Basis for Relief

13. Section 105 of the Bankruptcy Code authorizes the Court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Bankruptcy Rule 9019(a) provides that “on motion by the trustee and after a hearing, the court may approve a compromise or settlement. Fed. R. Bankr. P. 9019(a).

14. “To minimize litigation and expedite the administration of a bankruptcy estate, ‘[c]ompromises are favored in bankruptcy.’” *Myers v. Martin (In re Martin)*, 91 F.3d 389, 393 (3d Cir. 1996) (quoting 9 COLLIER ON BANKRUPTCY ¶ 9019.03[1] (15th ed. 1993)). *See also In re Protective Comm. For Indep. Stockholders of TMT Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968) (“[I]n administering reorganization proceedings in an economical and practical manner it will often be wise to arrange the settlement of claims....”).

15. Approving a settlement “is within the discretion of the bankruptcy court.” *In re World Health Alt., Inc.*, 344 B.R. 291, 296 (Bankr. D. Del. 2006). “In exercising this discretion, the bankruptcy court must determine whether the compromise is fair, reasonable, and in the best

interests of the estate.” *Key3Media Group, Inc. v. Pulver.com, Inc. (In re Key3Media Group, Inc.)*, 336 B.R. 87, 92 (Bankr. D. Del. 2005). The Third Circuit has enumerated four factors to be considered when evaluating a proposed settlement: “(1) the probability of success in litigation; (2) the likely difficulties in collection; (3) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; and (4) the paramount interest of the creditors.” *In re Martin*, 91 F.3d at 393; *accord In re Nutraquest*, 434 F.3d at 644.

Argument

16. The Settlement is the result of independent and lengthy negotiations and represents the best possible result achievable under the circumstances. The Trustee believes that providing the Releases in exchange for the Settlement Payment is appropriate given the alternative of continuing protracted litigation with further expense, and uncertainty that the outcome of the Lawsuit will be in the Trustee’s favor. Trustee therefore urges the Court to approve the Support Agreement under sections 105(a) of the Bankruptcy Code.

17. Trustee submits that the terms and conditions of the Settlement are fair and reasonable and in the best interests of Debtors’ estate for purposes of Bankruptcy Rule 9019.

18. In terms of the *Martin* factors, the probability of success in continuing litigation in the Lawsuit and the complexity of disputes at issue both weigh strongly in favor of the proposed Settlement. The history of the Lawsuit to date demonstrates that continued litigation over the parties’ respective rights and claims against each other is onerous, costly, and highly risky exercise for all sides. Thus, the first three criteria of the *Martin* test support the resolution set forth in the Support Agreement.

19. With respect to the paramount interest of creditors, the Trustee believes that the terms and conditions of the Settlement are in the best interests of creditors because it is expected to yield tangible benefits to the beneficiaries of the Trust by way of the Settlement Payment. The Releasing Creditors support of the Settlement is also not to be overlooked as the Releasing Creditors are primary beneficiaries of the Trust.

20. For the reasons set forth above, the Trustee believes that the terms of the Settlement are fair and reasonable, satisfy the standard promulgated by the Third Circuit governing compromise of controversies under Bankruptcy Rule 9019, and should be approved.

Notice

21. Notice of this Motion has been provided to (i) the United States Trustee and (ii) all parties requesting notice pursuant to Bankruptcy Rule 2002.

Conclusion

WHEREFORE, Trustee respectfully requests an order, substantially in the form as attached **Exhibit B**, approving the Settlement and granting such other and further relief as this Court deems just and proper.

Dated: August 8, 2013
Wilmington, Delaware

Respectfully Submitted,

/s/ Christopher A. Ward

Christopher A. Ward (Del. Bar No. 3877)
Jarrett Vine (Del. Bar No. 5400)
POLSINELLI PC
222 Delaware Avenue, Suite 1101
Wilmington, DE 19801
Telephone: (302) 252-0920
Facsimile: (302) 252-0921

-and-

Stephen M. Gross, Esq.
John E. Benko, Esq.
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39533 Woodward Avenue, Ste. 318
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-and-

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Attorneys for the Trustee

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

In re:	Chapter 11
CD LIQUIDATION CO., LLC, et al.,	Case No. 09-13038 (KG)
Debtors.	(Substantively Consolidated)
CHARLES M. MOORE, as trustee of the CD Liquidation Trust,	
Plaintiff,	
v.	Adv. Pro. No. 11-51636 (KG)
JOHN MARTILLO,	
Defendant.	Hearing Date: TBD Objection Deadline: August 22, 2013 at 4:00 p.m. (ET)

NOTICE OF MOTION

PLEASE TAKE NOTICE that on August 8, 2013, Charles M. Moore, Trustee of the CD Liquidation Trust (the “**Trustee**”), for the trust and on behalf of the bankruptcy estates of CD Liquidation Co., LLC, CD Liquidation Co. Plus, LLC, Cynergy Data, LLC, Cynergy Data Holdings, Inc, and Cynergy Prosperity Plus, LLC (collectively, the “**Debtors**”), filed the *Motion of Charles M. Moore, Trustee of the CD Liquidation Trust, for Order Pursuant to 11 U.S.C. § 105(a) and Bankruptcy Rule 9019 Approving Settlement Agreement* (the “**Motion**”).

PLEASE TAKE FURTHER NOTICE that any responses or objections to the Motion must be made in writing, filed with the Bankruptcy Court, and served upon so as to actually be received by the undersigned counsel for the Trustee on or before **August 22, 2013 at 4:00 p.m. (Eastern Time)**.

PLEASE TAKE FURTHER NOTICE that if an objection or response is properly filed in accordance with the above procedures, a hearing on the Motion will be held before the Honorable Kevin Gross, United States Bankruptcy Court for the District of Delaware, 824 Market Street, 6th Floor, Courtroom No. 3, Wilmington, Delaware 19801, at a date and time convenient to the Bankruptcy Court. Only those objections made in writing and timely filed and received in accordance with the procedures set forth herein will be considered by the Bankruptcy Court at such hearing.

PLEASE TAKE FURTHER NOTICE that if no objection or other response to the Motion is timely filed in accordance with the procedures set forth above, the Bankruptcy Court may enter an order granting the relief sought in the Motion without further notice or hearing.

Dated: August 8, 2013
Wilmington, Delaware

Respectfully Submitted,

/s/ Christopher A. Ward
Christopher A. Ward (Del. Bar No. 3877)
Jarrett Vine (Del. Bar No. 5400)
POLSINELLI PC
222 Delaware Avenue, Suite 1101
Wilmington, DE 19801
Telephone: (302) 252-0920
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Edmund W. Searby, Esq.
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PNC Center
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Telephone: (216) 621-0200
Facsimile: (216) 696-0740

Attorneys for the Liquidating Trustee

EXHIBIT A
(SETTLEMENT)

SETTLEMENT AGREEMENT

1. The parties to this agreement (the "Settlement Agreement") are: (a) Charles M. Moore, as Trustee on behalf of the CD Liquidation Trust and as representative on behalf of the Bankruptcy Estates of CD Liquidation Co., LLC (which was formerly known as Cynergy Data, LLC), CD Liquidation Co. Plus, LLC (which was formerly known as Cynergy Prosperity Plus, LLC), and Cynergy Data Holdings, Inc. (who is hereinafter referred to as "Trustee"); (b) Comerica Bank, for itself and as Senior First Lien Lender, Prosperity Lender, agent on behalf of the Senior First Lien Lenders, and as agent on behalf of the Prosperity Lenders; (c) Wells Fargo Capital Finance, LLC f/k/a Wells-Fargo Foothill, LLC, for itself and as Senior First Lien Lender; (d) Dymas Funding Company LLC, for itself and as agent on behalf of the Junior First Lien Lenders and as agent on behalf of the Second Lien Lenders; (e) Abelco Finance LLC, for itself and as Junior First Lien Lender and as Second Lien Lender; (f) A3 Funding LP, for itself and as Junior First Lien Lender and as Second Lien Lender; (g) Garrison Credit Investments I LLC, for itself and as Junior First Lien Lender; and (h) Garrison Credit Opportunities, L.P., for itself and as Junior First Lien Lender, on the one hand; and (i) John R. Martillo, on the other. Comerica Bank and Wells Fargo Capital Finance, LLC f/k/a Wells-Fargo Foothill, LLC are hereinafter collectively referred to as "Releasing Lenders." Dymas Funding Company LLC, Abelco Finance LLC, A3Funding LP, Garrison Credit Investments I LLC, and Garrison Credit Opportunities, L.P. are hereinafter collectively referred to as "Releasing Creditors."

2. The cases arising under title 11 of the United States Code and pending in the United States Bankruptcy Court for the District of Delaware, which were substantively consolidated and numbered "09-13038 (KG) and styled "In Re: CD Liquidation Co., LLC f/k/a Cynergy Data, LLC, CD Liquidation Co. Plus, LLC f/k/a Cynergy Prosperity Plus, LLC, and Cynergy Data Holdings, Inc.," are hereinafter referred to as the "Bankruptcy Case."

3. The adversary proceeding pending in the United States Bankruptcy Court for the District of Delaware, which is numbered as "Adv. Pro. No. 11-51636 (KG)" and styled as "Charles M. Moore, as Trustee of the CD Liquidation Trust v. John R. Martillo," is hereinafter referred to as the "Adversary Proceeding."

4. The intent of the parties is to resolve all disputes between the parties and to bar future litigation between the parties and the assertion of claims by non-parties against John R. Martillo arising from the same transactions or occurrences as those underlying the Adversary Proceeding and the civil actions that some of the Releasing Creditors previously commenced against John R. Martillo.

5. Trustee shall move the Court in the Bankruptcy Case to approve the settlement to be effectuated through this Settlement Agreement through entry of a written order, which shall include a bar order provision substantially in the form attached to this Settlement Agreement as "Exhibit A," and a provision requiring each party to perform his or its obligations under this Settlement Agreement (which order is hereinafter referred to as the "Settlement Order"), and, in so doing, Trustee shall, as required by Bankruptcy Rule 9019, provide reasonable notice and an opportunity to object and be heard to each and every person and other entity known to be legally entitled to receive such notice.

6. If the Court in the Bankruptcy Case enters the Settlement Order, and the Court does not alter or amend the Settlement Order, and either (a) no motion is filed pursuant to Bankruptcy Rules 8002 and 9023, and no notice of appeal is filed within forty days of the entry of the Settlement Order, or, alternatively, (b) any such motion filed within such forty day time period is denied by the Court in all respects, and neither a notice of appeal nor a motion to extend the time for filing a notice of appeal is filed within forty days of the entry of the order denying the last such timely filed motion outstanding, or, alternatively, (c) the Settlement Order and denial of any

such motion are affirmed in all respects upon appeal if any notice of appeal is timely filed (and thus, the Settlement Order is not reversed or vacated or altered or amended in any respect), then:

- a. Trustee and each of the Releasing Lenders shall execute a written release of all claims in the form attached to this Settlement Agreement as "Exhibit B" (the "Trustee and Lender Release") and shall cause the fully executed original of that release to be delivered to one of Trustee's counsel, Stephen M. Gross;
- b. Each of the Releasing Creditors shall execute a written release of all claims in the applicable form out of the collection of forms attached to this Settlement Agreement as "Exhibit C" (the "Creditor Release") and shall cause the fully executed original of that release to be delivered to Mr. Gross;
- c. On or before the 4th business day after the day upon which Mr. Gross shall inform John R. Martillo's counsel, Jack T. Jamison, Jon-Bernard Schwartz and Robert J. Stearn, Jr., through email that Mr. Gross has received the fully executed written release from Trustee, each of the Releasing Lenders, and each of the Releasing Creditors, John R. Martillo shall cause the total sum of Three Million Seven Hundred Fifty Thousand Dollars (\$3,750,000.00) to be wire transferred into an account under the sole control of Trustee in accordance with the instructions of Trustee (which sum is hereinafter referred to as the "Settlement Funds") and shall execute each of the Trustee and Lender Release and the Creditor Release himself and shall cause a PDF of each of John R. Martillo's executed signature pages to the Trustee and Lender Release and the Creditor Release to be emailed to Trustee's counsel, Edmund W. Searby and Mr. Gross;
- d. Upon receipt by the Trustee of the Settlement Funds, and receipt by Mr. Gross of an email forwarding a PDF of John R. Martillo's executed signature pages to the Trustee and Lender Release and the Creditor Release, the Trustee and Mr. Gross shall promptly

cause the original of each of those fully executed written releases to be delivered to John R. Martillo's counsel, Jack T. Jamison, through an overnight delivery service, and also promptly cause a PDF of each of the fully executed written releases to be emailed to Mr. Jamison and two of John R. Martillo's other counsel, Jon-Bernard Schwartz and Robert J. Stearn, Jr., and upon receipt by Mr. Jamison of the originals of the Trustee and Lender Release executed by Trustee and each of the Releasing Lenders and the Creditor Release executed by each of the Releasing Creditors and upon receipt by Mr. Gross of originals of the Trustee and Lender Release and the Creditor Release executed by John R. Martillo, Trustee and John R. Martillo shall jointly move the Court in the Adversary Proceeding to dismiss the Adversary Proceeding with prejudice through a written order substantially in the form attached to this Settlement Agreement as "Exhibit D" (which order is hereinafter referred to as the "Dismissal Order");

e. Trustee shall hold the Settlement Funds in trust for the sole benefit of John R. Martillo until the Dismissal Order is entered, and if the Dismissal Order is not entered, and if Mr. Jamison returns the Trustee and Lender Release executed by Trustee and Releasing Lenders and the Creditor Release executed by the Releasing Creditors to Mr. Gross, Trustee shall promptly thereafter cause the Settlement Funds to be wire transferred back to John R. Martillo upon demand by and in accordance with the instructions of either Mr. Jamison or Mr. Stearn or Jon-Bernard Schwartz;

f. Trustee shall be relieved of all obligations as trustee to John R. Martillo and shall distribute the Settlement Funds to the Releasing Lenders and Releasing Creditors in the manner that has been agreed to by them once the Dismissal Order is entered; and

g. In the event that John R. Martillo materially breaches any obligation set forth above in item 6.c. of this Settlement Agreement, Trustee may move to enforce this Settlement Agreement and to recover reasonable and necessary attorneys' fees pursuant to

item 7.j. in this Settlement Agreement. In the event it were established in the Bankruptcy Case or the Adversary Proceeding that the Trustee had wire transferred the Settlement Funds back to John R. Martillo, as discussed above in item 6.e. of this Settlement Agreement, any written release executed pursuant to this Settlement Agreement shall become void and have no further force or effect.

7. Each party to this Settlement Agreement acknowledges and recognizes that:

a. By entering into this Settlement Agreement or providing the consideration afforded through this Settlement Agreement, no other party is admitting liability, but rather, each party entered into this Settlement Agreement and afforded such consideration in order to save the time and money that would have been expended in further litigating liability regarding the subject of this Settlement Agreement, and to buy peace and avoid risk through a compromise settlement of claims about which there exists a bona fide dispute both as to liability and as to damages;

b. In resolving the Adversary Proceeding by this Settlement Agreement, each party is responsible for its own costs, including attorney's fees, and no party will seek any funds from any other party, other than the Settlement Funds, except as is discussed below in item 7.j. of this Settlement Agreement;

c. In entering into this Settlement Agreement, no party is relying upon any statement, representation, promise, warranty, or covenant made by any other party or any person representing or claiming to represent any other party, other than those that are expressly set forth in this Settlement Agreement;

d. Each party to this Settlement Agreement is executing this Settlement Agreement of such party's own free will and accord based upon such party's own knowledge of the facts and advice of legal counsel;

- e. Each party may execute this Settlement Agreement separately from each other party, and once each party has so executed this Settlement Agreement and a fully executed copy has been delivered (i.e., once all signed and acknowledged signature pages and all associated signed and sealed acknowledgment certificates have been delivered) to Messrs. Searby, Gross, Jamison, Schwartz, and Stearn, as discussed above, the Settlement Agreement shall be binding upon each party and each party's successors, assigns, guardians, trustees and heirs, subject only to item 6.g. and 7.k. of this Settlement Agreement;
- f. John R. Martillo shall have no liability or obligations with respect to the manner in which the Settlement Funds are distributed by Trustee;
- g. This Settlement Agreement supersedes any prior agreement between the parties, and any such prior agreement has no further force or effect;
- h. This Settlement Agreement has been made under and shall be governed by and construed under the law of the State of New York;
- i. This Settlement Agreement may be enforced only in the Bankruptcy Case and the Adversary Proceeding; provided, however, John R. Martillo, the Trustee, the Releasing Lenders, and the Releasing Creditors may assert any defense in any way arising out of or based upon or in any way related to the Settlement Agreement, any written release contemplated by the Settlement Agreement, or the Settlement Order in any civil action, lawsuit, arbitration proceeding, or any other type of proceeding in which any type of claim or right or cause of action is asserted against him or any of them;
- j. If any party were to seek to enforce this Settlement Agreement due to the breach of another party, or if Trustee or any of the Releasing Lenders or Releasing Creditors were to assert a claim or right or cause of action against John R. Martillo, and John R.

Martillo were to assert a defense, as is discussed above in item 7.i. of this Settlement Agreement, or if John R. Martillo were to assert a claim or right or cause of action against the Trustee, Releasing Lenders, or Releasing Creditors, and such Trustee, Releasing Lender, or Releasing Creditor were to assert a defense, as is discussed above in item 7.i of this Settlement Agreement, then the prevailing party in any such civil action, lawsuit, arbitration proceeding, or other type of proceeding shall recover reasonable and necessary attorneys' fees incurred with respect to enforcing this Settlement Agreement or asserting or establishing such defense; and

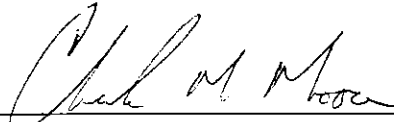
k. In the event it were established in the Bankruptcy Case or Adversary Proceeding that John R. Martillo had materially breached any obligation set forth above in item 6.c. of this Settlement Agreement, but John R. Martillo were not compelled to comply with his obligations, or in the event the Dismissal Order is not entered, the Trustee may declare in writing to Messrs. Jamison, Stearn and Schwartz that the settlement is void and has no further force or effect, and each party shall then be restored to the position he or it was in at the time of the filing of the first extension, and Trustee shall be free to prosecute the Adversary Proceeding against John R. Martillo.

8. Each individual natural person and each entity executing this Settlement Agreement on behalf of a party promises, covenants and warrants that he, she or it has authority to execute this Settlement Agreement on behalf of such party.

9. Trustee promises, warrants and covenants that he shall comply with his obligations under item 6.d. of this Settlement Agreement, and that he shall file no motion to alter or amend the entered Dismissal Order and shall file no notice of appeal with respect to the Dismissal Order and shall take no action likely to cause the Dismissal Order to be altered or amended. If it were to be established that the Trustee had materially breached any of the foregoing promises,

warranties, and covenants, John R. Martillo shall recover from the Trustee all resulting damages and any reasonable and necessary attorneys' fees incurred in responding to any such motion or appeal.

IN WITNESS WHEREOF, we have each hereunto signed our hand on the date indicated below in the acknowledgment certificates associated with each signature.

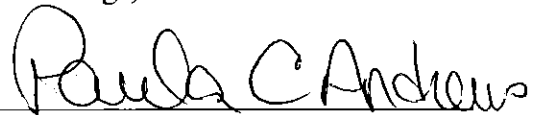


Charles M. Moore, as Trustee on behalf of the CD Liquidation Trust and as Representative on behalf of the Bankruptcy Estates of CD Liquidation Co., LLC (which was formerly known as Cynergy Data, LLC), CD Liquidation Co. Plus, LLC (which was formerly known as Cynergy Prosperity Plus, LLC), and Cynergy Data Holdings, Inc.

STATE OF Michigan §
COUNTY OF Oakland §

KNOW ALL MEN BY THESE PRESENTS

This instrument was acknowledged before me on this 2 day of August, 2013, by Charles M. Moore, as Trustee on behalf of the CD Liquidation Trust and as Representative on behalf of the Bankruptcy Estates of CD Liquidation Co., LLC (which was formerly known as Cynergy Data, LLC), CD Liquidation Co. Plus, LLC (which was formerly known as Cynergy Prosperity Plus, LLC), and Cynergy Data Holdings, Inc.



Notary Public
PAULA C. ANDREWS
Notary Public, State of Michigan
County of Oakland
My Commission Expires Oct. 27, 2014
Acting in the County of Oakland

COMERICA BANK

By: Elaine F. Frydrych
(Signature)

ELAINE F. FRYDRYCH
(Printed Name)

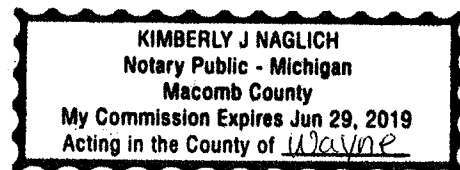
Its: VICE PRESIDENT
(Title of Office)

STATE OF Michigan §
COUNTY OF Wayne §

KNOW ALL MEN BY THESE PRESENTS

This instrument was acknowledged before me on this 6th day of August,
2013, by Elaine F. Frydrych, Vice President of
(Name of Signatory) (Title of Office)
COMERICA BANK, on behalf of COMERICA BANK.

Kimberly J. Naglich
Notary Public



WELLS FARGO CAPITAL

FINANCE, LLC f/k/a Wells Fargo

Foothill, LLC

By: [Signature]
(Signature)

Name: Matthew MacLay
(Printed Name)

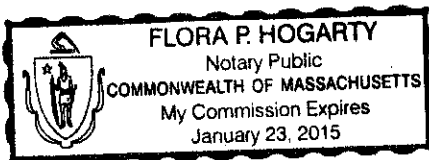
Title: Director

STATE OF Massachusetts §
COUNTY OF Suffolk §

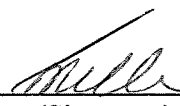
KNOW ALL MEN BY THESE PRESENTS

This instrument was acknowledged before me on this 8th day of August,
2013, by Matthew MacLay, Director of WELLS FARGO CAPITAL
(Name of Signatory) (Title of Office)
FINANCE, LLC f/k/a Wells Fargo Foothill, LLC on behalf of WELLS FARGO CAPITAL
FINANCE, LLC f/k/a Wells Fargo Foothill, LLC.

[Signature]
Notary Public Flora P. Hogarty



DYMAS FUNDING COMPANY LLC

By: 
(Signature)

Eric Miller
(Printed Name)

Its Managing ^{Director}~~Member~~

STATE OF New York §
COUNTY OF New York §

KNOW ALL MEN BY THESE PRESENTS

This instrument was acknowledged before me on this 6th day of July ~~August~~ 2013, by Eric Miller, as Managing ~~Member~~ ^{Director} of DYMAS FUNDING COMPANY LLC on behalf of DYMAS FUNDING COMPANY LLC.


Notary Public

SHARA L. COOPER
Notary Public, State of New York
No. 01CO6151527
Qualified in New York County
Commission Expires Aug. 21, 2014

ABELCO FINANCE LLC

By: [Signature]
(Signature)

Eric Miller
(Printed Name)

~~Its Managing Member~~ Senior Vice President

STATE OF New York §
COUNTY OF New York §

KNOW ALL MEN BY THESE PRESENTS

This instrument was acknowledged before me on this 6th day of July August 2013, by Eric Miller, as ~~Managing Member~~ SVP Director of ABELCO FINANCE LLC
(Name of Signatory)
on behalf of ABELCO FINANCE LLC.

[Signature]
Notary Public

SHARA L. COOPER
Notary Public, State of New York
No. 01CO6151527
Qualified in New York County
Commission Expires Aug. 21, 2014

A3 FUNDING LP

By: A3 Fund Management LLC
Its General Partner

By: [Signature]
(Signature)

Eric Miller
(Printed Name)

Its: Vice President
(Title of Office)

STATE OF New York §
COUNTY OF New York §

KNOW ALL MEN BY THESE PRESENTS

This instrument was acknowledged before me on this 6th day of July ~~August~~
2013, by Eric Miller, Vice President of
(Name of Signatory) (Title of Office)
A3 Fund Management LLC on behalf of A3 Fund Management LLC, as General Partner
(Name of General Partner) (Name of General Partner)
on behalf of A3 FUNDING LP.

[Signature]
Notary Public

SHARA L. COOPER
Notary Public, State of New York
No. 01CO6151527
Qualified in New York County
Commission Expires Aug. 21, 2014

GARRISON CREDIT INVESTMENTS I
LLC

By: _____

(Signature)

JULIAN WELDON
SECRETARY

(Printed Name)

Its Managing Member

STATE OF NY §

COUNTY OF NY §

KNOW ALL MEN BY THESE PRESENTS

This instrument was acknowledged before me on this 7 day of August,
2013, by Julian Weldon, as Managing Member of GARRISON CREDIT
(Name of Signatory)

INVESTMENTS I LLC on behalf of GARRISON CREDIT INVESTMENTS I LLC.

Notary Public

BRADLEY STUART HARRIS
NOTARY PUBLIC-STATE OF NEW YORK
No. 02HA6219185
Qualified in Kings County
My Commission Expires March 22, 2014

Holdings

GARRISON CREDIT OPPORTUNITIES,
L.P.

By: Garrison Credit Opportunities Master GP LLC
Its General Partner

By: [Signature]
(Signature)

JULIAN WELDON
SECRETARY

(Printed Name)

Its: _____
(Title of Office)

STATE OF NY §
COUNTY OF NY §

KNOW ALL MEN BY THESE PRESENTS

This instrument was acknowledged before me on this 7 day of AUGUST,
2013, by Julian Weldon, secretary of

(Name of Signatory)

(Title of Office)

of

Garrison Credit Opportunities Master GP LLC on behalf of Garrison Credit Opportunities, as General Partner
(Name of General Partner) (Name of General Partner)

on behalf of GARRISON CREDIT OPPORTUNITIES, L.P.

[Signature]
Notary Public

BRADLEY STUART HARRIS
NOTARY PUBLIC-STATE OF NEW YORK
No. 02HA6219185
Qualified In Kings County
My Commission Expires March 22, 2014


JOHN R. MARTILLO

STATE OF TEXAS

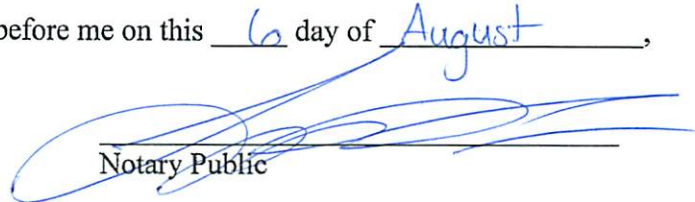
COUNTY OF Dallas

§
§
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KNOW ALL MEN BY THESE PRESENTS

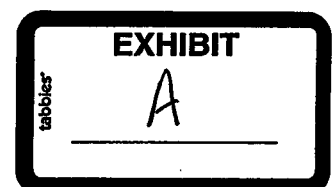
This instrument was acknowledged before me on this 6 day of August, 2013, by JOHN R. MARTILLO.




Notary Public

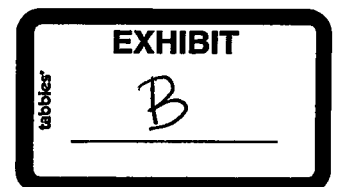
BAR ORDER

1. No person or entity (collectively, the “Barred Persons”) shall commence, prosecute or assert: (i) claims that are property of the CD Liquidation Trust or that are derivative claims of the above-captioned debtors and their estates and successors that arise from or relate to any of the claims released pursuant to the Settlement Agreement and the Exhibits thereto (collectively, the “Barred Estate Claims”); and (ii) any claim for contribution or indemnity against any of John R. Martillo, Danielle L. Vaughn (Martillo), Martillo Holdings, LLC, Signapay Genpar, LLC, Signapay Holdings, LP, 6M GenPar, LLC, and 6M Family Holdings, LP (collectively, the “Released Parties”), whether or not denominated as for contribution or indemnity, where the injury to the Barred Person is the liability of the Barred Person to another person or entity (a “Plaintiff”), arising out of or related to the claims or allegations released pursuant to the Settlement Agreement and the Exhibits thereto, whether arising under state, federal or foreign law as claims, cross-claims, counterclaims or third-party claims (collectively, the “Barred Third Party Claims”). If a court or tribunal determines that a Barred Third Party Claim exists that, but for this Order, would have given rise to the liability of a Released Party to a Barred Person, then the court or tribunal shall reduce any judgment or award against such Barred Person in an amount equal to (a) the amount of the judgment or award against the Barred Person multiplied by (b) the aggregate proportionate share of fault (expressed as a percentage) of the Released Party that would have been liable on a Barred Third Party Claim absent this Order. Any and all plaintiffs are hereby enjoined and barred from seeking relief or collecting judgments in any manner that fails to conform to the terms of this Order, including without limitation its proportionate judgment reduction provision.



RELEASE OF ALL CLAIMS

For and in consideration of John R. Martillo's agreement to wire transfer the "Settlement Funds" in accordance with a certain Settlement Agreement previously entered into by the parties to this release and other entities (a copy of which agreement is attached to this release as "Exhibit A" and incorporated herein), and other consideration afforded through that agreement and this release (this "Release"), (1) Charles M. Moore, as Trustee on behalf of the CD Liquidation Trust and as representative on behalf of the Bankruptcy Estates of CD Liquidation Co., LLC (which was formerly known as Cynergy Data, LLC), CD Liquidation Co. Plus, LLC (which was formerly known as Cynergy Prosperity Plus, LLC), and Cynergy Data Holdings, Inc. (who is hereinafter referred to as "Trustee"), (2) the CD Liquidation Trust, and the Bankruptcy Estates of CD Liquidation Co., LLC (which was formerly known as Cynergy Data, LLC), CD Liquidation Co. Plus, LLC (which was formerly known as Cynergy Prosperity Plus, LLC), and Cynergy Data Holdings, Inc. (which are hereinafter collectively referred to as "Releasing Entities"), (3) Comerica Bank, for itself and as Senior First Lien Lender, Prosperity Lender, agent on behalf of the Senior First Lien Lenders, and as agent on behalf of the Prosperity Lenders, and (4) Wells Fargo Capital Finance, LLC f/k/a Wells-Fargo Foothill, LLC, for itself and as Senior First Lien Lender, (Comerica Bank, for itself and as Senior First Lien Lender, Prosperity Lender, agent on behalf of the Senior First Lien Lenders, and as agent on behalf of the Prosperity Lenders, and Wells Fargo Capital Finance, LLC f/k/a Wells-Fargo Foothill, LLC, for itself and as Senior First Lien Lender, are hereinafter collectively referred to as the "Releasing Lenders") hereby RELEASE, REMISE, DISCHARGE and ACQUIT John R. Martillo, Danielle L. Vaughn (Martillo), Martillo Holdings, LLC, Signapay Genpar, LLC, Signapay Holdings, LP, 6M GenPar, LLC, and 6M Family Holdings, LP from any further liability or responsibility for any



claim or cause or right of action, known or unknown, foreseen or unforeseen, which each has or would have upon the occurrence of conditions precedent, including, but not limited to, any claim or cause or right of action in any way arising out of or based upon: (a) any shares of stock of C.P.S. Group, Inc. or Cynergy Data Holdings, Inc. that John R. Martillo once owned; (b) any agreement with respect to any redemption of any such shares of stock; (c) absolutely anything that John R. Martillo, Marcelo Paladini, Gustavo Ceballos, C.P.S. Group, Inc. or any of its directors, officers, employers or representatives, or Cynergy Data Holdings, Inc. or any of its directors, officers, employees or representatives did or said or represented or failed to do or say or represent with respect to any such redemption of any such shares of stock or with respect to any loan of any funds ultimately paid in connection with any such redemption of any such shares of stock; (d) any payment made to or for the benefit of John R. Martillo with respect to any such redemption of such shares of stock; (e) absolutely anything that John R. Martillo, Marcelo Paladini, Gustavo Ceballos, or any other individual did or said or represented or failed to do or say or represent in his or her capacity as a director, officer or shareholder of either C.P.S. Group, Inc. or Cynergy Data Holdings, Inc., specifically including, but not limited to, any breach of any fiduciary duty; or (f) any claim or cause or right of action asserted or which could have asserted in the "Adversary Proceeding."

For the consideration afforded through the above-referenced Settlement Agreement and this Release, John R. Martillo hereby RELEASES, REMISES, DISCHARGES and ACQUITS Trustee, the Releasing Entities, and the Releasing Lenders, together with any successors, divisions, subsidiaries, parents, and affiliates and each of their respective estates, directors, officers, members, partners, managers, employees, agents, attorneys, heirs, and assigns, from any and all actions, claims, causes of action, demands, damages, costs, expenses whether presently

foreseen or unforeseen, which he has or would have upon the occurrence of conditions precedent, including but not limited to any claims in any way arising out of or based upon: (a) the business or operations of C.P.S. Group, Inc., Cynergy Data Holdings, Inc., Cynergy Data, LLC, Cynergy Prosperity Plus, LLC or any of their divisions, subsidiaries, parents, affiliates, successors, or assigns (collectively the “Cynergy Companies”), (b) the lending of funds to the Cynergy Companies by the Releasing Lenders, (c) any counterclaim that could have been brought in the Adversary Proceeding or the Bankruptcy Case, or (d) the conduct of the Adversary Proceeding or the Bankruptcy Case, including, but not limited to, the filing of any claim or allegation in the Adversary Proceeding or the Bankruptcy Case.

Trustee and each of the Releasing Entities promise, warrant and covenant that:

- a. At the time this Release was executed, Trustee or one of the Releasing Entities owned each of the claims and causes and rights of action released by them through this Release;
- b. At the time this Release was executed, no other entity owned any interest in any of those claims or causes or rights of action;
- c. At the time this Release was executed, neither Trustee nor the CD Liquidation Trust had previously assigned, transferred or conveyed any interest in any of those claims or causes or rights of action; and
- d. At the time this Release was executed, there was no entity other than Trustee or CD Liquidation Trust with standing to assert any of those claims or causes or rights of action.

Trustee and the CD Liquidation Trust also promise, covenant and warrant that, after executing this Release:

- a. Trustee and the CD Liquidation Trust shall refrain from assigning, transferring or conveying any interest in any of those claims or causes or rights of action and attempting to do so.

Trustee promises, covenants and warrants that he has authority to execute this Release on behalf of each of the Releasing Entities.

Each of the Releasing Lenders promises, warrants and covenants that:

- a. At the time this Release was executed, it owned each of the claims and causes and rights of action it released through this Release;
- b. At the time this Release was executed, no other entity owned any interest in any of those claims or causes or rights of action;
- c. At the time this Release was executed, it has not previously assigned, transferred or conveyed any interest in any of those claims or causes or rights of action; and
- d. At the time this Release was executed, there was no entity other than it with standing to assert any of those claims or causes or rights of action.

Each of the Releasing Lenders also promises, covenants and warrants that, after executing this Release:

- a. It shall refrain from assigning, transferring or conveying any interest in any of those claims or causes or rights of action and attempting to do so.

John R. Martillo promises, warrants and covenants that:

- a. At the time this Release was executed, he owned each of the claims and causes and rights of action he released through this Release;
- b. At the time this Release was executed, no other entity owned any interest in any of those claims or causes or rights of action;

- c. At the time this Release was executed, he has not previously assigned, transferred or conveyed any interest in any of those claims or causes or rights of action;
- d. At the time this Release was executed, there is no entity other than himself with standing to assert any of those claims or causes or rights of action; and
- e. The Settlement Funds will be lawfully owned by him, free and clear of all liens and encumbrances, he has the authority to pay the Settlement Funds, as contemplated by this Release, and the payment of the Settlement Funds, as provided in the Settlement Agreement and this Release, will not render him insolvent or otherwise constitute a legally improper preferential payment, or a fraudulent or voidable transfer.

John R. Martillo also promises, covenants and warrants that, after executing this Release :

- a. He shall refrain from assigning, transferring or conveying any interest in any of those claims or causes or rights of action and attempting to do so.

If it were to be established that any party had materially breached any of the foregoing promises, warranties, or covenants, and any such breach had caused material damage to another party, the damaged party may pursue any legal or equitable remedy available under federal law or the law of the State of New York. Additionally, if Trustee, or any of the Releasing Entities or Releasing Lenders were to become legally liable to disgorge or otherwise return more than \$100,000 of the portion of the Settlement Funds distributed to him or it under circumstances which constitute a breach of the promises, covenants, and warranties made by John R. Martillo above in this Release with respect to the Settlement Funds, such Trustee, Releasing Entity or Releasing Lender may at his or its option:

- a. Pursue all available legal and equitable remedies to recover the disgorged amount, plus reasonable and necessary attorneys' fees incurred in successfully obtaining such

recovery, from John R. Martillo, as a result of the breach of such promise, covenant, or warranty, but only if the civil action to recover the disgorged amount and fees is commenced and served upon John R. Martillo within one year of the date of disgorgement; or

b. Return the full amount of the Settlement Funds distributed to him or it to John R. Martillo that has not been disgorged as set forth above, and then pursue any available legal or equitable remedy with respect to any claim released by such Trustee, Releasing Entity or Releasing Lender through this Release, and all such claims shall be revived in full and neither this Release nor any statute of limitation shall constitute any defense with respect to such claim, which release of such claims shall be void and without force or effect, but only if the civil action to pursue such claims is commenced and served upon John R. Martillo within one year of the date of disgorgement.

Each party acknowledges and recognizes that:

a. By entering into the Settlement Agreement or providing the consideration afforded through that agreement or this Release, no party is admitting liability, but rather, that such consideration was provided in consideration of this contractual release in an effort to save the time and money that would have been expended in further litigating liability regarding the subject of this Release , and to buy peace and avoid risk through a compromise settlement of claims about which there exists a bona fide dispute both as to liability and as to damages;

b. Each party is executing this Release of his or its own free will and accord, and has not relied upon any statements, promises, warranties, or representations made by any other party or any person representing or claiming to represent any other party, but rather,

is doing so based upon his or its own knowledge of the facts, and the advice of his or its attorney; and

c. Each party expressly waives the provisions, rights, and benefits of California Civil Code Section 1542, or any other similar state law, federal law, or principle of common law, which may have the effect of limiting the releases contemplated hereby.

Section 1542 of the California Civil Code provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

IN WITNESS WHEREOF, we have each hereunto signed our hand on the date specified below in the notary public's acknowledgment certificate.

Charles M. Moore, as Trustee on behalf of
the CD Liquidation Trust and as
representative on behalf of the Bankruptcy
Estates of CD Liquidation Co., LLC (which
was formerly known as Cynergy Data,
LLC), CD Liquidation Co. Plus, LLC
(which was formerly known as Cynergy
Prosperity Plus, LLC), and Cynergy Data
Holdings, Inc.

STATE OF _____ §
COUNTY OF _____ §

KNOW ALL MEN BY THESE PRESENTS

This instrument was acknowledged before me on this _____ day of _____,
2013, by Charles M. Moore, as Trustee on behalf of the CD Liquidation Trust and as
representative on behalf of the Bankruptcy Estates of CD Liquidation Co., LLC (which was
formerly known as Cynergy Data, LLC), CD Liquidation Co. Plus, LLC (which was formerly
known as Cynergy Prosperity Plus, LLC), and Cynergy Data Holdings, Inc.

Notary Public

COMERICA BANK

By: _____
(Signature)

(Printed Name)

Its: _____
(Title of Office)

STATE OF _____ §
COUNTY OF _____ §

KNOW ALL MEN BY THESE PRESENTS

This instrument was acknowledged before me on this _____ day of _____,
2013, by _____, _____ of
(Name of Signatory) (Title of Office)
COMERICA BANK, on behalf of COMERICA BANK.

Notary Public

WELLS FARGO CAPITAL
FINANCE, LLC f/k/a Wells-Fargo
Foothill, LLC

By: _____
(Signature)

(Printed Name)

Its Managing Member

STATE OF _____ §
COUNTY OF _____ §

KNOW ALL MEN BY THESE PRESENTS

This instrument was acknowledged before me on this _____ day of _____,
2013, by _____, as Managing Member of WELLS FARGO CAPITAL
(Name of Signatory)

FINANCE, LLC f/k/a Wells-Fargo Foothill, LLC on behalf of WELLS FARGO CAPITAL
FINANCE, LLC f/k/a Wells-Fargo Foothill, LLC.

Notary Public

John R. Martillo

STATE OF TEXAS

§
§
§

KNOW ALL MEN BY THESE PRESENTS

COUNTY OF _____

This instrument was acknowledged before me on this _____ day of _____,
2013, by JOHN R. MARTILLO.

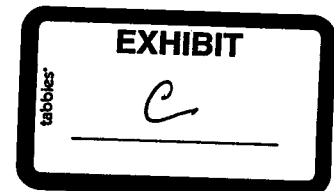
Notary Public

[COPY OF FULLY EXECUTED SETTLEMENT
AGREEMENT]

Exhibit A

RELEASE OF ALL CLAIMS

For and in consideration of John R. Martillo's agreement to wire transfer the "Settlement Funds" in accordance with a certain Settlement Agreement previously entered into by the parties to this release and other entities (a copy of which agreement is attached to this release as "Exhibit A" and incorporated herein), and other consideration afforded through that agreement and this release (this "Release"), (1) Dymas Funding Company LLC, for itself and as agent on behalf of the Junior First Lien Lenders and as agent on behalf of the Second Lien Lenders, (2) Abelco Finance LLC, for itself and as Junior First Lien Lender and as Second Lien Lender, and (3) A3 Funding LP, for itself and as Junior First Lien Lender and as Second Lien Lender, (Dymas Funding Company LLC, for itself and as agent on behalf of the Junior First Lien Lenders and as agent on behalf of the Second Lien Lenders, Abelco Finance LLC, for itself and as Junior First Lien Lender and as Second Lien Lender, and A3 Funding LP, for itself and as Junior First Lien Lender and as Second Lien Lender are hereinafter collectively referred to as the "Releasing Creditors") hereby RELEASE, REMISE, DISCHARGE and ACQUIT John R. Martillo, Danielle L. Vaughn (Martillo), Martillo Holdings, LLC, Signapay Genpar, LLC, Signapay Holdings, LP, 6M GenPar, LLC, and 6M Family Holdings, LP from any further liability or responsibility for any claim or cause or right of action, known or unknown, foreseen or unforeseen, which each has or would have upon the occurrence of conditions precedent, including, but not limited to, any claim or cause or right of action in any way arising out of or based upon: (a) any shares of stock of C.P.S. Group, Inc. or Cynergy Data Holdings, Inc. that John R. Martillo once owned; (b) any agreement with respect to any redemption of any such shares of stock; (c) absolutely anything that John R. Martillo, Marcelo Paladini, Gustavo Ceballos, C.P.S. Group, Inc. or any of its directors, officers, employers or representatives, or Cynergy Data Holdings, Inc. or any of its



directors, officers, employees or representatives did or said or represented or failed to do or say or represent with respect to any such redemption of any such shares of stock or with respect to any loan of any funds ultimately paid in connection with any such redemption of any such shares of stock; (d) any payment made to or for the benefit of John R. Martillo with respect to any such redemption of such shares of stock; (e) absolutely anything that John R. Martillo, Marcelo Paladini, Gustavo Ceballos, or any other individual did or said or represented or failed to do or say or represent in his or her capacity as a director, officer or shareholder of either C.P.S. Group, Inc. or Cynergy Data Holdings, Inc., specifically including, but not limited to, any breach of any fiduciary duty; or (f) any claim or cause or right of action asserted or which could have asserted in the "Adversary Proceeding" or in the civil action that Releasing Creditors commenced against John R. Martillo in the Supreme Court of the State of New York, County of New York, which was styled *Dymas Funding Company, LLC, A3 Funding LP and Abelco Finance LLC, Plaintiffs v. Marcelo Paladini, John Martillo, and Gustavo Ceballos, Defendants*, and numbered 09602852.

For the consideration afforded through the above-referenced Settlement Agreement and this Release, John R. Martillo hereby RELEASES, REMISES, DISCHARGES and ACQUITS the Releasing Creditors, together with any successors, divisions, subsidiaries, parents, and affiliates and each of their respective estates, directors, officers, members, partners, managers, employees, agents, attorneys, heirs, and assigns, from any and all actions, claims, causes of action, demands, damages, costs, expenses whether presently foreseen or unforeseen, which he has or would have upon the occurrence of conditions precedent, including but not limited to any claims in any way arising out of or based upon: (a) the business or operations of C.P.S. Group, Inc., Cynergy Data Holdings, Inc., Cynergy Data, LLC, Cynergy Prosperity Plus, LLC or any of

their divisions, subsidiaries, parents, affiliates, successors, or assigns (collectively the “Cynergy Companies”), (b) the lending of funds to the Cynergy Companies by the Releasing Creditors, (c) any counterclaim that could have been brought in the Adversary Proceeding or the Bankruptcy Case or the other litigation, or (d) the conduct of the Adversary Proceeding or the Bankruptcy Case or the other litigation, including, but not limited to, the filing of any claim or allegation in the Adversary Proceeding or the Bankruptcy Case or the other litigation.

Each of the Releasing Creditors promises, warrants and covenants that:

- a. At the time this Release was executed, it owned each of the claims and causes and rights of action it released through this Release;
- b. At the time this Release was executed, no other entity owned any interest in any of those claims or causes or rights of action;
- c. At the time this Release was executed, it has not previously assigned, transferred or conveyed any interest in any of those claims or causes or rights of action; and
- d. At the time this Release was executed, there was no entity other than it with standing to assert any of those claims or causes or rights of action.

Each of the Releasing Creditors also promises, covenants and warrants that, after executing this Release:

- a. It shall refrain from assigning, transferring or conveying any interest in any of those claims or causes or rights of action and attempting to do so.

John R. Martillo promises, warrants and covenants that:

- a. At the time this Release was executed, he owned each of the claims and causes and rights of action he released through this Release;

- b. At the time this Release was executed, no other entity owned any interest in any of those claims or causes or rights of action;
- c. At the time this Release was executed, he has not previously assigned, transferred or conveyed any interest in any of those claims or causes or rights of action;
- d. At the time this Release was executed, there is no entity other than himself with standing to assert any of those claims or causes or rights of action; and
- e. The Settlement Funds will be lawfully owned by him, free and clear of all liens and encumbrances, he has the authority to pay the Settlement Funds, as contemplated by this Release, and the payment of the Settlement Funds, as provided in the Settlement Agreement and this Release, will not render him insolvent or otherwise constitute a legally improper preferential payment, or a fraudulent or voidable transfer.

John R. Martillo also promises, covenants and warrants that, after executing this Release :

- a. He shall refrain from assigning, transferring or conveying any interest in any of those claims or causes or rights of action and attempting to do so.

If it were to be established that any party had materially breached any of the foregoing promises, warranties, or covenants, and any such breach had caused material damage to another party, the damaged party may pursue any legal or equitable remedy available under federal law or the law of the State of New York. Additionally, if any of the Releasing Creditors were to become legally liable to disgorge or otherwise return more than \$100,000 of the portion of the Settlement Funds distributed to him or it under circumstances which constitute a breach of the promises, covenants, and warranties made by John R. Martillo above in this Release with respect to the Settlement Funds, such Releasing Creditor may at its option:

a. Pursue all available legal and equitable remedies to recover the disgorged amount, plus reasonable and necessary attorneys' fees incurred in successfully obtaining such recovery, from John R. Martillo, as a result of the breach of such promise, covenant, or warranty, but only if the civil action to recover the disgorged amount and fees is commenced and served upon John R. Martillo within one year of the date of disgorgement; or

b. Return the full amount of the Settlement Funds distributed to it to John R. Martillo that has not been disgorged as set forth above, and then pursue any available legal or equitable remedy with respect to any claim released by such Releasing Creditor through this Release, and all such claims shall be revived in full and neither this Release nor any statute of limitation shall constitute any defense with respect to such claim, which release of such claims shall be void and without force or effect, but only if the civil action to pursue such claims is commenced and served upon John R. Martillo within one year of the date of disgorgement.

Each party acknowledges and recognizes that:

a. By entering into the Settlement Agreement or providing the consideration afforded through that agreement or this Release, no party is admitting liability, but rather, that such consideration was provided in consideration of this contractual release in an effort to save the time and money that would have been expended in further litigating liability regarding the subject of this Release , and to buy peace and avoid risk through a compromise settlement of claims about which there exists a bona fide dispute both as to liability and as to damages;

b. Each party is executing this Release of his or its own free will and accord, and has not relied upon any statements, promises, warranties, or representations made by any other party or any person representing or claiming to represent any other party, but rather, is doing so based upon his or its own knowledge of the facts, and the advice of his or its attorney; and

c. Each party expressly waives the provisions, rights, and benefits of California Civil Code Section 1542, or any other similar state law, federal law, or principle of common law, which may have the effect of limiting the releases contemplated hereby.

Section 1542 of the California Civil Code provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

IN WITNESS WHEREOF, we have each hereunto signed our hand on the date specified below in the notary public's acknowledgment certificate.

DYMAS FUNDING COMPANY LLC

By: _____
(Signature)

(Printed Name)

Its Managing Member

STATE OF _____ §
COUNTY OF _____ §

KNOW ALL MEN BY THESE PRESENTS

This instrument was acknowledged before me on this _____ day of _____,
2013, by _____, as Managing Member of DYMAS FUNDING
(Name of Signatory)
COMPANY LLC on behalf of DYMAS FUNDING COMPANY LLC.

Notary Public

ABELCO FINANCE LLC

By: _____
(Signature)

(Printed Name)

Its Managing Member

STATE OF _____ §
COUNTY OF _____ §

KNOW ALL MEN BY THESE PRESENTS

This instrument was acknowledged before me on this _____ day of _____,
2013, by _____, as Managing Member of ABELCO FINANCE LLC
(Name of Signatory)
on behalf of ABELCO FINANCE LLC.

Notary Public

A3 FUNDING LP

By: _____
Its General Partner

By: _____
(Signature)

(Printed Name)

Its: _____
(Title of Office)

STATE OF _____ §
COUNTY OF _____ §

KNOW ALL MEN BY THESE PRESENTS

This instrument was acknowledged before me on this _____ day of _____,
2013, by _____, _____ of
(Name of Signatory) (Title of Office)
_____, on behalf of _____, as General Partner
(Name of General Partner) (Name of General Partner)
on behalf of A3 FUNDING LP.

Notary Public

John R. Martillo

STATE OF TEXAS

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§
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KNOW ALL MEN BY THESE PRESENTS

COUNTY OF _____

This instrument was acknowledged before me on this _____ day of _____,
2013, by JOHN R. MARTILLO.

Notary Public

[COPY OF FULLY EXECUTED SETTLEMENT
AGREEMENT]

Exhibit A

RELEASE OF ALL CLAIMS

For and in consideration of John R. Martillo's agreement to wire transfer the "Settlement Funds" in accordance with a certain Settlement Agreement previously entered into by the parties to this release and other entities (a copy of which agreement is attached to this release as "Exhibit A" and incorporated herein), and other consideration afforded through that agreement and this release (this "Release"), (1) Garrison Credit Investments I LLC, for itself and as Junior First Lien Lender, and (2) Garrison Credit Opportunities, L.P., for itself and as Junior First Lien Lender, (Garrison Credit Investments I LLC, for itself and as Junior First Lien Lender, and Garrison Credit Opportunities, L.P., for itself and as Junior First Lien Lender are hereinafter collectively referred to as the "Releasing Creditors") hereby RELEASE, REMISE, DISCHARGE and ACQUIT John R. Martillo, Danielle L. Vaughn (Martillo), Martillo Holdings, LLC, Signapay Genpar, LLC, Signapay Holdings, LP, 6M GenPar, LLC, and 6M Family Holdings, LP from any further liability or responsibility for any claim or cause or right of action, known or unknown; foreseen or unforeseen, which each has or would have upon the occurrence of conditions precedent, including, but not limited to, any claim or cause or right of action in any way arising out of or based upon: (a) any shares of stock of C.P.S. Group, Inc. or Cynergy Data Holdings, Inc. that John R. Martillo once owned; (b) any agreement with respect to any redemption of any such shares of stock; (c) absolutely anything that John R. Martillo, Marcelo Paladini, Gustavo Ceballos, C.P.S. Group, Inc. or any of its directors, officers, employers or representatives, or Cynergy Data Holdings, Inc. or any of its directors, officers, employees or representatives did or said or represented or failed to do or say or represent with respect to any such redemption of any such shares of stock or with respect to any loan of any funds ultimately paid in connection with any such redemption of any such shares of stock; (d) any payment made to or for the benefit of

John R. Martillo with respect to any such redemption of such shares of stock; (e) absolutely anything that John R. Martillo, Marcelo Paladini, Gustavo Ceballos, or any other individual did or said or represented or failed to do or say or represent in his or her capacity as a director, officer or shareholder of either C.P.S. Group, Inc. or Cynergy Data Holdings, Inc., specifically including, but not limited to, any breach of any fiduciary duty; or (f) any claim or cause or right of action asserted or which could have asserted in the "Adversary Proceeding" or in the civil action that one of Releasing Creditors commenced against John R. Martillo in the Supreme Court of the State of New York, County of New York, which was styled *Garrison Credit Investments I LLC, Plaintiff v. Marcelo Paladini, John Martillo, and Gustavo Ceballos, Defendants*, and numbered 603545/2009.

For the consideration afforded through the above-referenced Settlement Agreement and this Release, John R. Martillo hereby RELEASES, REMISES, DISCHARGES and ACQUITS the Releasing Creditors, together with any successors, divisions, subsidiaries, parents, and affiliates and each of their respective estates, directors, officers, members, partners, managers, employees, agents, attorneys, heirs, and assigns, from any and all actions, claims, causes of action, demands, damages, costs, expenses whether presently foreseen or unforeseen, which he has or would have upon the occurrence of conditions precedent, including but not limited to any claims in any way arising out of or based upon: (a) the business or operations of C.P.S. Group, Inc., Cynergy Data Holdings, Inc., Cynergy Data, LLC, Cynergy Prosperity Plus, LLC or any of their divisions, subsidiaries, parents, affiliates, successors, or assigns (collectively the "Cynergy Companies"), (b) the lending of funds to the Cynergy Companies by the Releasing Creditors, (c) any counterclaim that could have been brought in the Adversary Proceeding or the Bankruptcy Case or the other litigation, or (d) the conduct of the Adversary Proceeding or the Bankruptcy

Case or the other litigation, including, but not limited to, the filing of any claim or allegation in the Adversary Proceeding or the Bankruptcy Case or the other litigation.

Each of the Releasing Creditors promises, warrants and covenants that:

- a. At the time this Release was executed, it owned each of the claims and causes and rights of action it released through this Release;
- b. At the time this Release was executed, no other entity owned any interest in any of those claims or causes or rights of action;
- c. At the time this Release was executed, it has not previously assigned, transferred or conveyed any interest in any of those claims or causes or rights of action; and
- d. At the time this Release was executed, there was no entity other than it with standing to assert any of those claims or causes or rights of action.

Each of the Releasing Creditors also promises, covenants and warrants that, after executing this Release:

- a. It shall refrain from assigning, transferring or conveying any interest in any of those claims or causes or rights of action and attempting to do so.

John R. Martillo promises, warrants and covenants that:

- a. At the time this Release was executed, he owned each of the claims and causes and rights of action he released through this Release;
- b. At the time this Release was executed, no other entity owned any interest in any of those claims or causes or rights of action;
- c. At the time this Release was executed, he has not previously assigned, transferred or conveyed any interest in any of those claims or causes or rights of action;

d. At the time this Release was executed, there is no entity other than himself with standing to assert any of those claims or causes or rights of action; and

e. The Settlement Funds will be lawfully owned by him, free and clear of all liens and encumbrances, he has the authority to pay the Settlement Funds, as contemplated by this Release, and the payment of the Settlement Funds, as provided in the Settlement Agreement and this Release, will not render him insolvent or otherwise constitute a legally improper preferential payment, or a fraudulent or voidable transfer.

John R. Martillo also promises, covenants and warrants that, after executing this Release :

a. He shall refrain from assigning, transferring or conveying any interest in any of those claims or causes or rights of action and attempting to do so.

If it were to be established that any party had materially breached any of the foregoing promises, warranties, or covenants, and any such breach had caused material damage to another party, the damaged party may pursue any legal or equitable remedy available under federal law or the law of the State of New York. Additionally, if any of the Releasing Creditors were to become legally liable to disgorge or otherwise return more than \$100,000 of the portion of the Settlement Funds distributed to him or it under circumstances which constitute a breach of the promises, covenants, and warranties made by John R. Martillo above in this Release with respect to the Settlement Funds, such Releasing Creditor may at its option:

a. Pursue all available legal and equitable remedies to recover the disgorged amount, plus reasonable and necessary attorneys' fees incurred in successfully obtaining such recovery, from John R. Martillo, as a result of the breach of such promise, covenant, or warranty, but only if the civil action to recover the disgorged amount and fees is

commenced and served upon John R. Martillo within one year of the date of disgorgement; or

b. Return the full amount of the Settlement Funds distributed to it to John R. Martillo that has not been disgorged as set forth above, and then pursue any available legal or equitable remedy with respect to any claim released by such Releasing Creditor through this Release, and all such claims shall be revived in full and neither this Release nor any statute of limitation shall constitute any defense with respect to such claim, which release of such claims shall be void and without force or effect, but only if the civil action to pursue such claims is commenced and served upon John R. Martillo within one year of the date of disgorgement.

Each party acknowledges and recognizes that:

a. By entering into the Settlement Agreement or providing the consideration afforded through that agreement or this Release, no party is admitting liability, but rather, that such consideration was provided in consideration of this contractual release in an effort to save the time and money that would have been expended in further litigating liability regarding the subject of this Release , and to buy peace and avoid risk through a compromise settlement of claims about which there exists a bona fide dispute both as to liability and as to damages;

b. Each party is executing this Release of his or its own free will and accord, and has not relied upon any statements, promises, warranties, or representations made by any other party or any person representing or claiming to represent any other party, but rather, is doing so based upon his or its own knowledge of the facts, and the advice of his or its attorney; and

c. Each party expressly waives the provisions, rights, and benefits of California Civil Code Section 1542, or any other similar state law, federal law, or principle of common law, which may have the effect of limiting the releases contemplated hereby.

Section 1542 of the California Civil Code provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

IN WITNESS WHEREOF, we have each hereunto signed our hand on the date specified below in the notary public's acknowledgment certificate.

GARRISON CREDIT INVESTMENTS I
LLC

By: _____
(Signature)

(Printed Name)

Its Managing Member

STATE OF _____ §
COUNTY OF _____ §

KNOW ALL MEN BY THESE PRESENTS

This instrument was acknowledged before me on this _____ day of _____, 2013, by _____, as Managing Member of GARRISON CREDIT
(Name of Signatory)

INVESTMENTS I LLC on behalf of GARRISON CREDIT INVESTMENTS I LLC.

Notary Public

GARRISON CREDIT OPPORTUNITIES,
L.P.

By: _____
Its General Partner

By: _____
(Signature)

(Printed Name)

Its: _____
(Title of Office)

STATE OF _____ §
COUNTY OF _____ §

KNOW ALL MEN BY THESE PRESENTS

This instrument was acknowledged before me on this _____ day of _____,
2013, by _____, _____ of
(Name of Signatory) (Title of Office)
_____ on behalf of _____, as General Partner
(Name of General Partner) (Name of General Partner)
on behalf of GARRISON CREDIT OPPORTUNITIES, L.P.

Notary Public

John R. Martillo

STATE OF TEXAS

§
§
§

KNOW ALL MEN BY THESE PRESENTS

COUNTY OF _____

This instrument was acknowledged before me on this _____ day of _____,
2013, by JOHN R. MARTILLO.

Notary Public

[COPY OF FULLY EXECUTED SETTLEMENT
AGREEMENT]

Exhibit A

EXHIBIT B

(PROPOSED ORDER)

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

)	
In re:	)	Chapter 11
)	
CD LIQUIDATION CO., LLC, et al.	)	Case No. 09-13038 (KG)
)	
Debtors.	)	(Substantively consolidated)
)	
CHARLES M. MOORE, as trustee of the)	
CD LIQUIDATION TRUST,)	
)	
Plaintiff,)	
)	
v.	)	Adv. Pro. No. 11-51636 (KG)
)	
JOHN MARTILLO,)	
)	
Defendant.)	
	)	Re: Docket No. ____

**ORDER GRANTING MOTION OF CHARLES M. MOORE,
TRUSTEE OF THE CD LIQUIDATION TRUST, FOR ORDER
PURSUANT TO 11 U.S.C. § 105(A) AND BANKRUPTCY RULE 9019
APPROVING SETTLEMENT AGREEMENT**

Upon the motion (the “Motion to Approve Settlement”) of Charles M. Moore, in his capacity as Trustee (the “Liquidation Trustee”) of the CD Liquidation Trust and successor-in-interest to the substantively consolidated bankruptcy estate of CD Liquidation Co., LLC, CD Liquidation Co. Plus, LLC and Cynergy Data Holdings, Inc., for entry of an order under Bankruptcy Code section 105 and Bankruptcy Rule 9019 Settlement attached as Exhibit A to the Motion to Approve Settlement¹ between Trustee, Martillo and the Releasing Creditors; and it appearing that the Court has jurisdiction over this matter; and this Court having fully considered the record before it; and proper and adequate notice of the Motion to Approve Settlement is

¹ All capitalized terms not defined herein shall have the meaning ascribed to such terms in the Motion to Approve Settlement.

sufficient under the circumstances; and that no other or further notice need be provided; and after due deliberation and sufficient cause appearing therefore; it is hereby ORDERED THAT:

1. The Motion to Approve Settlement is GRANTED as set forth herein.
2. The Trustee is authorized to take any and all actions necessary to effectuate the Settlement.
3. Notwithstanding any Bankruptcy Rule to the contrary, this Order shall take effect immediately upon its entry.
4. This Court shall, and hereby does, retain jurisdiction to hear and determine all matters arising from or related to the implementation of this Order.

Dated: _____, 2013
Wilmington, Delaware

The Honorable Kevin Gross
United States Bankruptcy Judge