

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

In re:

CYNERGY DATA, LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 09-13038 (KG)

Jointly Administered  
Related Docket No. 14

**ORDER ESTABLISHING PROCEDURES  
FOR INTERIM COMPENSATION AND REIMBURSEMENT  
OF EXPENSES OF PROFESSIONALS AND COMMITTEE MEMBERS**

Upon the motion (the "Motion") of the above-captioned debtors and debtors-in-possession (collectively, the "Debtors"), for an order pursuant to sections 105(a) and 331 of the Bankruptcy Code<sup>2</sup>, Bankruptcy Rule 2016 and Local Rule 2016-2, for an order establishing procedures for the interim compensation and reimbursement of fees and expenses for court-approved professionals; and upon the Moore Declaration and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and the Court having determined that the relief sought in the Motion is in the best interests of the Debtors, their creditors, and all parties-in-interest; and upon the Motion and all of the proceedings had before the Court; and after due deliberation and sufficient cause appearing therefor, it is hereby

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<sup>1</sup> 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.

<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is GRANTED in all respects.
2. Except as otherwise ordered by the Court, all Professionals may seek interim compensation and reimbursement of expenses in accordance with the following procedures:
  - a. No earlier than the 10th day of each calendar month, each Professional seeking interim compensation and expense reimbursement shall file with the Court and serve a copy of its monthly invoice (the "Monthly Statement") for the prior month (the "Compensation Period") on: (i) the Office of the United States Trustee, J. Caleb Boggs Federal Building, 2nd Floor, 844 King Street, Wilmington, Delaware 19801, Attn: Thomas P. Tinker, Esq.; (ii) the Debtors, 30-30 47th Avenue, 9th Floor, Long Island City, New York 11101; (iii) counsel to the Debtors, Nixon Peabody LLP, 437 Madison Avenue, New York, New York 10056, Attn: Dennis J. Drebsky, Esq.; and Pepper Hamilton LLP, Suite 5100, 1313 Market Street, Wilmington, Delaware 19801, Attn: David B. Stratton, Esq., Evelyn J. Meltzer, Esq., and John H. Schanne, II, Esq; and (iv) counsel to any Committee appointed in the Debtors' case (collectively, the "Notice Parties"). All Monthly Statements shall comply with the timekeeping and detail requirements of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the United States Trustee Fee Guidelines - 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 "U.S. Trustee Fee Guidelines") and other applicable law. The first monthly fee applications filed by the Professionals shall be filed no earlier than October 10, 2009 and may cover fees and expenses incurred from the Petition Date through September 30, 2009.
  - b. Each Notice Party will have 20 days after service and filing of a Monthly Statement to object thereto (the "Objection Deadline"). Upon the expiration of the Objection Deadline, the Debtors shall be authorized to pay each Professional an amount (the "Actual Monthly Payment") equal to the lesser of (i) eighty percent (80%) of the fees and one-hundred percent (100%) of the expenses requested in the Monthly Statement (the "Maximum Monthly Payment"); and (ii) eighty percent (80%) of the fees and one-hundred percent (100%) of the expenses not subject to an objection pursuant to subparagraph (c) below.
  - c. If any Notice Party objects to a Professional's Monthly Statement, it must file with the Court and serve on the affected Professional

and each of the Notice Parties, a written objection (the "Objection"), which must be received by the affected Professional and the Notice Parties on or before the Objection Deadline. Thereafter, the objecting party and the affected Professional may attempt to resolve the Objection on a consensual basis. If the parties are unable to reach a resolution of the Objection within 20 days after service of the Objection, the affected Professional may either: (i) file a motion seeking resolution of the Objection with the Court, together with a request for payment of the difference, if any, between the Maximum Monthly Payment and the Actual Monthly Payment made to the affected Professional (the "Incremental Amount"); or (ii) forego payment of the Incremental Amount until the next interim or final fee application hearing, at which time the Court will consider and dispose of the Objection if requested by the parties.

- d. Commencing with the period beginning on the Petition Date and ending on November 30, 2009, and at three-month intervals thereafter, or at such other intervals convenient to the Court, each of the Professionals must file with the Court and serve upon the Notice Parties an interim application (the "Interim Fee Application") for Court approval and allowance, pursuant to section 331 of the Bankruptcy Code, of the compensation and reimbursement of expenses sought in the Monthly Applications filed with respect to such three-month period (the "Interim Fee Period"). Each Professional must file its Interim Fee Application within 45 days after the end of the Interim Fee Period for which the application seeks allowance of fees and reimbursement of expenses and serve the Interim Fee Application on the Notice Parties. Each Professional must file its first Interim Fee Application on or before January 14, 2010, and the first Interim Fee Application should cover the Interim Fee Period from the commencement of these cases through and including November 30, 2009. Any Professional that fails to file an Interim Fee Application when due will be ineligible to receive further interim payments of fees or expenses under the compensation procedures until such time as the Interim Fee Application is submitted by the Professional or such requirement is waived by the Court after notice and hearing.
- e. The Debtors shall request that the Court schedule a hearing on the outstanding Interim Fee Applications at least once every four months, or at such other intervals as the Court deems appropriate.
- f. The pendency of an Objection to payment of compensation or reimbursement of expenses will not disqualify a Professional from

the future payment of compensation or reimbursement of expenses under the procedures set forth in this Order.

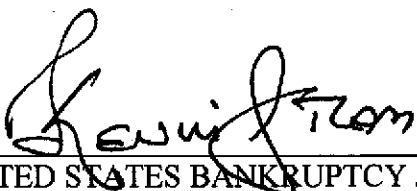
- g. Neither: (a) the payment of or the failure to pay, in whole or in part, monthly interim compensation and reimbursement of expenses, nor (b) the filing of or failure to file an Objection will bind any party in interest or the Court with respect to the allowance of interim or final applications for compensation and reimbursement of expenses of Professionals.

3. Each member of any Committee shall be permitted to submit statements of expenses (excluding third-party counsel expenses of individual members) and supporting vouchers to the respective Committee's counsel, which shall submit such requests for reimbursement in accordance with the Compensation Procedures. Approval of the Compensation Procedures will not authorize payment of such expenses to the extent that such authorization does not exist under the Bankruptcy Code, the Bankruptcy Rules, applicable Third Circuit law, the Local Rules, or the practices of this Court.

4. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

5. Notwithstanding any Bankruptcy Rule to the contrary, this Order shall be immediately effective and enforceable upon its entry.

Dated: September 15, 2009

  
UNITED STATES BANKRUPTCY JUDGE