

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

In re:

CYNERGY DATA, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 09-13038 (KG)

Jointly Administered

Related Docket No.: 332

**ORDER (i) AUTHORIZING THE DEBTORS TO DIRECT
DISBURSEMENTS FROM ESCROW AND (ii) APPROVING THE PROCEDURE
FOR ESCROW DISBURSEMENTS PURSUANT TO 11 U.S.C. § 363 and 365**

Upon the motion (the "Motion")² of the above-captioned debtors and debtors-in-possession (each a "Debtor" and collectively, the "Debtors"), authorizing the Debtors to direct disbursements from certain funds held in escrow and (ii) approving the procedure for such disbursements; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and this being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and venue being proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409; 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

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, ADJUDGED, AND DECREED THAT:

1. The Motion is GRANTED as set forth herein.
2. Upon resolution of any objection to the proposed Cure Amount, the Debtors shall file notice of such proposed resolution (each a "Cure Resolution Notice") with the Court.
3. The Debtors shall serve each Cure Resolution Notice on those parties that have filed and not withdrawn requests for notices pursuant to Bankruptcy Rule 2002.
4. Unless any party objects within seven (7) business days to any proposed cure resolution, the Debtors are hereby authorized to direct the Escrow Agent to release the funds from the Cure Reserve on account of the applicable Cure Amount in the amount stated in the applicable Cure Resolution Notice without further order of this Court.
5. If an objection to any Cure Resolution Notice is received, the funds on account to the applicable Cure Amount will only be released by the Escrow Agent from the Cure Reserve upon an order of the Court or a superseding Cure Resolution Notice (to which the same procedures will apply).
6. The Debtors are authorized and empowered to take all actions necessary to effectuate the relief granted pursuant to this Order.
7. The procedures approved hereby shall not apply to any alleged Cure Amounts comprised, in whole or in part, of the unfunded merchant rolling reserves in the amount of \$21,341,801 (the "Unfunded Rolling Reserves") the nature of which is currently the subject of a dispute set for hearing on January 7th and 8th , 2009 (the "Unfunded Rolling Reserve Dispute") among various parties including, without limitation, Ableco Finance LLC, A3 Funding LP, Garrison Credit Investments I, LLC, and Garrison Credit Opportunities Holdings L.P. (collectively, the "Term B Lenders"), Comerica Bank and Dymas Funding Company ("Dymas" and, with the Term B Lenders, the "Term B Parties") and Harris Bank, N.A. ("Moneris").

8. The Debtors shall be prohibited from directing the Escrow Agent to release funds, and the Escrow Agent shall be prohibited from releasing funds, from the Cure Reserve if such release of funds would render the funds remaining in the Cure Reserve, after such release, insufficient to satisfy the aggregate of the greater of: (i) the amount stated in Debtors Cure Notice relating to any unresolved cure objections or (ii) the amount stated in any objection to the Cure Amount relating to any unresolved cure objections. At all relevant times, the Debtors shall cause the amount of funds in the Cure Reserve, net of any disbursements hereunder authorized, to be sufficient to satisfy the stated cure amount in the cure objection filed by Tribul Merchant Services LLC, Tribul LLC, and Second Source Funding LLC. The preceding sentences in this paragraph 8 apply, without limitation, to the Unfunded Rolling Reserve until final disposition of the Unfunded Rolling Reserve Dispute.

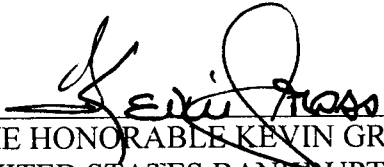
9. The Debtors shall provide the Term B Parties, Moneris and Cynergy Holdings, LLC and their respective counsel with prompt service by facsimile and/or electronic mail of each Cure Resolution Notice.

10. Nothing in this Order shall, or shall be deemed to, alter the burden of proof that would otherwise apply to a resolution of cure disputes under applicable provisions of the Bankruptcy Code and Bankruptcy Rules.

11. The terms of this Order shall be binding upon the Debtors, all creditors of the Debtors, and any trustees appointed in these chapter 11 cases or any trustees appointed in any subsequent proceedings under chapter 7 or chapter 11 of the Bankruptcy Code relating to the Debtors, and all other parties-in-interest.

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

Dated: November 20 2009
Wilmington, Delaware



THE HONORABLE KEVIN GROSS
UNITED STATES BANKRUPTCY JUDGE