

UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re)
)
)
CD LIQUIDATION CO., LLC f/k/a)
CYNERGY DATA, LLC, et al.,¹)
)
Debtors.)
_____)

Chapter 11
Case No. 09-13038 (KG)
Objection Deadline: February 1, 2009 at 4:00 p.m.
Hearing Date: TBD

**FOURTH MONTHLY APPLICATION OF JAGER SMITH P.C. FOR COMPENSATION
FOR SERVICES RENDERED AND REIMBURSEMENT OF EXPENSES AS
COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS
FOR THE PERIOD FROM DECEMBER 1, 2009 THROUGH DECEMBER 31, 2009**

Name of applicant: Jager Smith P.C.

Authorized to provide professional services to: Official Committee of Unsecured Creditors

Date of retention: effective as of September 10, 2009

Period for which compensation and reimbursement are sought: December 1, 2009 through December 31, 2009

Amount of compensation sought as actual, reasonable, and necessary: \$44,595.00

Amount of expense reimbursement sought as actual, reasonable and necessary: \$369.10

This is a(n): x monthly interim final application

¹ By its order dated November 18, 2009, the Bankruptcy Court ordered that the caption in these jointly administered cases be changed to reflect changes to the corporate names of Cynergy Data, LLC and Cynergy Prosperity Plus, LLC agreed to as part of the sale of substantially all of their assets during these chapter 11 cases.

PRIOR MONTHLY APPLICATIONS

Date Filed	Period Covered	Requested		Approved (After Filing of Certificate of No Objection)	
		Fees	Expenses	Fees	Expenses
10/26/2009	9/10/2009 – 9/30/2009	\$90,100.00	\$1,542.50	\$90,100.00	\$1,542.50
11/10/2009	10/1/2009 – 10/31/2009	\$108,942.50	\$2,861.08	\$108,942.50	\$2,861.08
12/10/2009	11/1/2009 – 11/30/2009	\$76,840.00	\$1,154.85	\$76,840.00	\$1,154.85

COMPENSATION BY PROFESSIONAL

Name of Professional Person	Position with Applicant and Number of Years in that Position	Hourly Billing Rate	Total Billed Hours	Total Compensation
Bruce F. Smith	Partner since 1978. Member of CT and NY bars since 1970 and MA bar since 1974.	\$500.00	33.00	\$16,500.00
Steven C. Reingold	Partner since 2004. Member of NJ bar since 1993, NY bar since 1994, MA bar since 1999 and NH bar since 2004.	\$400.00	1.20	\$480.00

Michael J. Fencer	Partner since 2009. Member of MA bar since 2001.	\$400.00	17.70	\$7,080.00
Brendan C. Recuperero	Associate Member of the MA bar since 1999.	\$350.00	57.10	\$19,985.00
Kristin Slack	Paralegal Member of MA bar since 2009.	\$175.00	1.50	\$262.50
Vanessa Flavin	Paralegal	\$125.00	2.30	\$287.50

Total Amount of Fees: \$44,595.00²

Total Number of Hours: 112.80

Blended Hourly Rate: \$395.35

² Pursuant to an agreement between Jager Smith and the Committee, Jager Smith's fees in this case are billed monthly at lesser of (i) Jager Smith's customary hourly rates and (ii) a blended hourly rate of \$425. As set forth herein, Jager Smith seeks interim allowance of its fees in the amount of \$44,595.00 because the actual hourly rates do not exceed the blended hourly rate of \$425.00 for the period of December 1, 2009 through December 31, 2009.

COMPENSATION BY PROJECT CATEGORY

Project Category	Total Hours	Total Fees
Asset Analysis and Recovery	12.00	\$5,035.00
Asset Disposition	7.70	\$2,930.00
Case Administration	4.80	\$900.00
Claims Administration and Objections	0.90	\$315.00
Fee Applications and Objections	6.60	\$2,310.00
Financing	5.00	\$2,130.00
Litigation	28.00	\$11,215.00
Plan and Disclosure Statement	47.80	\$19,760.00
Totals:	112.80	\$44,595.00

EXPENSE SUMMARY

Expense Category	Service Provider	Total Expenses
Computer Assisted Legal Research	Westlaw	\$360.96
Telephone	Verizon	\$8.14
Total:		\$369.10

UNITED STATES BANKRUPTCY COURT
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_____)	Chapter 11
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)	Case No. 09-13038 (KG)
CD LIQUIDATION CO., LLC f/k/a)	
CYNERGY DATA, LLC, et al.,)	
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**FOURTH MONTHLY APPLICATION OF JAGER SMITH P.C. FOR COMPENSATION
FOR SERVICES RENDERED AND REIMBURSEMENT OF EXPENSES AS
COUNSEL TO THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS
FOR THE PERIOD FROM DECEMBER 1, 2009 THROUGH DECEMBER 31, 2009**

Jager Smith P.C. (“Jager Smith”) hereby files this *Fourth Monthly Application of Jager Smith P.C. for Compensation for Services Rendered and Reimbursement of Expenses as Counsel to the Official Committee of Unsecured Creditors for the Period from December 1, 2009 through December 31, 2009* (the “Application”), and respectfully requests interim allowance of compensation for the actual, reasonable and necessary attorneys’ fees, and of reimbursement of actual, reasonable and necessary expenses, incurred during the period from December 1, 2009 through December 31, 2009 in connection with its services as counsel to the Official Committee of Unsecured Creditors (the “Committee”) of CD Liquidation Co., LLC, f/k/a Cynergy Data, LLC, Cynergy Data Holdings, Inc. and CD Liquidation Co. Plus, LLC, f//k/a Cynergy Prosperity Plus, LLC (collectively, the “Debtors”), and authorizing payment to Jager Smith as is set forth herein.

In support of this Application, Jager Smith respectfully states as follows:

Procedural History

1. On September 1, 2009, each of the Debtors filed a *Voluntary Petition* for relief under Chapter 11 of Title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “Bankruptcy Code”). Since the Petition Date, the Debtors have continued in the possession of their assets and in the management of their businesses as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code until October 26, 2009, on which date they conveyed substantially all of their assets to Cynergy Holdings, LLC.
2. On September 10, 2009, the Office of the United States Trustee appointed the Committee. Thereafter, the Committee selected Jager Smith to serve as the Committee's counsel and Ashby & Geddes (“Ashby”) to serve as the Committee’s Delaware counsel.
3. On September 18, 2009, the Committee applied to this Court [Docket No. 126] for the approval of the employment of Jager Smith (“Motion to Employ”) in this case pursuant to Section 1103(a) of the Bankruptcy Code, Rule 2014(a) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 2014-1 of the Local Rules for the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), effective as of September 10, 2009. Jager Smith received no retainer in connection with this case. On October 20, 2009, the Court entered an order [Docket No. 298] authorizing the Committee’s retention of Jager Smith effective as of September 10, 2009, a copy of which is submitted herewith as Exhibit A.
4. On September 15, 2009, the Court entered the *Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals and Committee Members* (the “Compensation Order”) [Docket No. 107], providing that professionals employed in this case may request monthly compensation and reimbursement of expenses, and further providing

interested parties with an opportunity to object to such requests. The Compensation Order provides that in the event that no party in interest objects to such a request within twenty days after service thereof, the Debtors are authorized to pay 80% of the compensation and 100% of the expenses requested in such monthly application.

Jurisdiction and Venue

5. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334(a) and 157(a). This matter is a core proceeding under 28 U.S.C. § 157(b)(2). Venue of the Debtors' cases and this matter in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are Section 331 of the Bankruptcy Code, Bankruptcy Rule 2016, and Local Rule 2016-2.

Description of Services Rendered and Expenses Incurred

6. The professional services rendered by Jager Smith on behalf of the Committee during the period covered by this Application are described in detail in the daily time records maintained by Jager Smith in the ordinary course of business, copies of which are submitted herewith as Exhibit B-1 to Exhibit B-8.

7. Pursuant to an agreement between Jager Smith and the Committee, Jager Smith's fees in this case are billed monthly at the lesser of (i) Jager Smith's customary hourly rates and (ii) a blended hourly rate of \$425.

8. In order to assist the Court in its review of the compensation sought herein, Jager Smith has divided its time entries into the following task categories, in accordance with Local Rule 2016-2(c):

a. *Asset Analysis and Recovery*: Jager Smith has included in this category time spent reviewing, analyzing, and investigating potential claims belonging to the Debtors' estates.

Jager Smith has also included in this category time spent preparing letters to various parties pursuant to Rule 2004-1 of the Local Rules in furtherance of its investigation of potential claims belonging to the Debtors' estates. The total compensation requested for professional services rendered in this category at Jager Smith's customary hourly rates for the period covered by this Application is \$5,035.00. The detailed time entries for those professional services are submitted herewith as Exhibit B-1.

b. *Asset Disposition:* Jager Smith has included in this category, among other things, time spent reviewing the post-closing effect of the Debtors' sale of substantially all of their assets. Jager Smith has also included in this category time spent analyzing the status of various contracts and whether such contracts were assumed in connection with the Debtors' sale of assets. This category of services also includes time spent communicating with counsel to Harris N.A. ("Harris") regarding the stipulation extending certain discovery deadlines in the contested matter concerning Harris' cure claim and attending the hearings concerning the status of the same. The total compensation requested for professional services rendered in this category at Jager Smith's customary hourly rates for the period covered by this Application is \$2,930.00. The detailed time entries for those professional services are submitted herewith as Exhibit B-2.

c. *Case Administration:* Jager Smith has included in this category, among other things, time spent updating its web site page dedicated to this case in furtherance of the Committee's duties under Section 1102 of the Bankruptcy Code. The total compensation requested for professional services rendered in this category at Jager Smith's customary hourly rates for the period covered by this Application is \$900.00. The detailed time entries for those professional services are submitted herewith as Exhibit B-3.

d. *Claims Administration and Objections:* Jager Smith has included in this category, among other things, time spent analyzing potential issues concerning the resolution of cure disputes. The total compensation requested for professional services rendered in this category at Jager Smith's customary hourly rates for the period covered by this Application is \$315.00. The detailed time entries for those professional services are submitted herewith as Exhibit B-4.

e. *Fee Applications and Objections:* Jager Smith has included in this category time spent complying with the Compensation Order and preparing its third monthly fee application. The total compensation requested for professional services rendered in this category at Jager Smith's customary hourly rates for the period covered by this Application is \$2,310.00. The detailed time entries for those professional services are submitted herewith as Exhibit B-5.

f. *Financing:* Jager Smith has included in this category, among other tasks, time spent commenting and negotiating with counsel to the Debtors and their secured lenders on the Committee's behalf with respect to the Debtors' proposed budget. The total compensation requested for professional services rendered in this category at Jager Smith's customary hourly rates for the period covered by this Application is \$2,130.00. The detailed time entries for those professional services are submitted herewith as Exhibit B-6.

g. *Litigation:* Jager Smith has included in this category time spent analyzing potential causes of action that may belong to the Debtors' estates and preparing pleadings necessary to preserve the same. Jager Smith has also included in this category time spent discussing potential claims with the Debtors' secured lenders that do or may assert security interests in such claims, as well as the possible assignment and/or release by those lenders of such claims to the liquidating trustee to be appointed pursuant to a Chapter 11 liquidating plan. In addition, Jager Smith has included in this category time spent reviewing the litigation pending

between Dymas Funding Company, LLC and Harris, and assessing its impact upon the Debtors' estates. The total compensation requested for professional services rendered in this category at Jager Smith's customary hourly rates during the period covered by this Application is \$11,215.00. The detailed time entries for those professional services are submitted herewith as Exhibit B-7.

h. *Plan and Disclosure Statement:* Jager Smith has included in this category time spent reviewing the Debtors' draft plan of liquidation and communicating with Debtors' counsel and other parties in interest regarding the same. Jager Smith has also included in this category time spent preparing the form of liquidation trust agreement that will serve to implement the Debtors' liquidating plan. The total compensation requested for professional services rendered in this category at Jager Smith's customary hourly rates during the period covered by this Application is \$19,760.00. The detailed time entries for those professional services are submitted herewith as Exhibit B-8.

11. Jager Smith submits that the reasonable value of the professional services rendered on behalf of the Committee at Jager Smith's customary hourly rates for the period covered by this Application is \$44,595.00 and that those services were reasonably likely to benefit the Debtors' estates, or were otherwise necessary to the administration of the Debtors' cases. As indicated above, Jager Smith's fees in this case are to be billed monthly at the lesser of (i) Jager Smith's customary hourly rates and (ii) a blended hourly rate of \$425. Jager Smith's fees for services rendered at the blended hourly rate of \$425 for the period covered by this Application are \$47,940.00. Since the blended hourly rate exceeds Jager Smith's customary hourly rates for the period covered by this Application, the blended hourly rate does not apply to this Application. Jager Smith requests interim approval of Jager Smith's fees in the amount of \$44,595.00

(representing the aggregate amount of fees incurred during the period covered by this Application at Jager Smith's customary hourly rates) and authority for the Debtors to pay Jager Smith the amount of \$35,676.00, which amount represents the 80% of \$44,595.00.

12. Jager Smith also requests approval of the actual expenses it incurred on behalf of the Committee during the period covered by this Application in the sum of \$369.10, the details of which are submitted herewith as Exhibit C. The actual expenses billed to or incurred by Jager Smith during the period covered by this Application include those for telephone charges and on-line legal research charges, all of which Jager Smith has billed in a manner and at rates consistent with charges made generally to the firm's other clients. In accordance with Local Rule 2016-2(e)(iii), Jager Smith is charging the amount of \$0.10 per page for photocopies and the amount of \$1.00 per page for outgoing facsimile transmittals.

13. As outlined above, the attorneys and paraprofessionals who worked on this case on behalf of the Committee have various levels of expertise. From time to time these individuals have consulted with each other and other professionals involved in this case with regard to various issues arising therein, which Jager Smith submits is the most efficient manner in which to represent the Committee, as opposed to representation by a single attorney who would then be required to research and familiarize himself or herself with each and every legal issue that arises. The biographies of the attorneys and paraprofessionals who rendered services on behalf of the Committee during the period covered by this Application are submitted herewith as Exhibit D.

WHEREFORE, Jager Smith respectfully requests interim allowance of Jager Smith's fees covered by the Application in the amount of \$44,595.00, payment for services covered in the Application in the amount of \$35,676.00 (which amount is 80% of the fees sought in this Application), and allowance and reimbursement of actual and necessary expenses in the amount of \$369.10, for total payment of \$36,045.10.

JAGER SMITH P.C.

/s/ Michael J. Fencer

Bruce F. Smith (admitted *pro hac vice*)

Steven C. Reingold (admitted *pro hac vice*)

Michael J. Fencer (admitted *pro hac vice*)

JAGER SMITH P.C.

One Financial Center

Boston, Massachusetts 02111

telephone: (617) 951-0500

facsimile: (617) 951-2414

email: mfencer@jagersmith.com

CERTIFICATION

I, Michael J. Fencer, hereby certify as follows:

1. I am a partner in the law firm of Jager Smith P.C.
2. I have reviewed the within *Fourth Monthly Application of Jager Smith P.C. for Compensation for Services Rendered and Reimbursement of Expenses as Counsel to the Official Committee of Unsecured Creditors for the Period from December 1, 2009 through December 31, 2009* (the "Application").
3. I certify, pursuant to Rule 2016-2(f) of the Local Rules for the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), that I have reviewed the requirements of Local Rule 2016-2, and that to the best of my knowledge, information and belief, the Application complies therewith.

/s/ Michael J. Fencer
Michael J. Fencer

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

_____)	Chapter 11
In re)	
)	Case No. 09-13038 (KG)
CD LIQUIDATION CO., LLC f/k/a)	
CYNERGY DATA, LLC, et al., ¹)	
)	Objection Deadline: February 1, 2010 at 4:00 p.m.
Debtors.)	Hearing Date: TBD if necessary
_____)	

NOTICE OF APPLICATION

To: Fee Application Notices Parties

PLEASE TAKE NOTICE that on January 12, 2010, Jager Smith P.C. (“Jager Smith”), counsel to the Official Committee of Unsecured Creditors (the “Committee”) of CD Liquidation Co., LLC, f/k/a Cynergy Data, LLC, Cynergy Data Holdings, Inc. and CD Liquidation Co. Plus, LLC, f/k/a Cynergy Prosperity Plus, LLC (collectively, the “Debtors”), has filed the accompanying *Fourth Monthly Application of Jager Smith P.C. for Compensation for Services Rendered and Reimbursement of Expenses as Counsel to the Official Committee of Unsecured Creditors for the Period from December 1, 2009 through December 31, 2009* (the “Application”) with the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”), pursuant to which Jager Smith seeks interim allowance of fees in the amount of \$44,595.00 and reimbursement of expenses in the amount of \$369.10.

PLEASE TAKE FURTHER NOTICE that responses or objections to the Application, if any, are required to be in writing and filed on or before **February 1, 2010 at 4:00 p.m.** (the “Objection Deadline”) with the United States Bankruptcy Court for the District of Delaware, 824

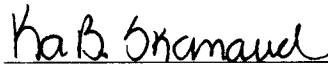
¹ By its order dated November 18, 2009, the Bankruptcy Court ordered that the caption in these jointly administered cases be changed to reflect changes to the corporate names of Cynergy Data, LLC and Cynergy Prosperity Plus, LLC agreed to as part of the sale of substantially all of their assets during these chapter 11 cases.

North Market Street, 3d Floor, Wilmington, Delaware 19801. At the same time, you must also serve a copy of the response or objection upon the following so as to be received on or before the Objection Deadline: (i) Cynergy Data, LLC, 30-30 47th Avenue, 9th Floor, Long Island City, New York 11101; (ii) Nixon Peabody LLP, 437 Madison Avenue, New York, New York 10056 (Attention: Dennis J. Drebsky, Esq); (iii) Pepper Hamilton LLP, Hercules Plaza, Suite 5100, 1313 N. Market Street, P.O. Box 1709, Wilmington, Delaware 19899-1709 (Attention: David B. Stratton, Esq., Evelyn J. Meltzer, Esq. And John H. Schanne, II, Esq.); (iv) Jager Smith P.C., One Financial Center, Boston, Massachusetts 02111-2621 (Attention: Brendan C. Recuperio, Esq.); (v) Ashby & Geddes, 500 Delaware Avenue, 8th Floor, P.O. Box 1150, Wilmington, Delaware 19899 (Attention: Gregory Alan Taylor, Esq. and Karen B. Skomorucha, Esq.); and (vi) the Office of the United States Trustee, 844 King Street, Room 2313, Wilmington, Delaware 19801 (Attention: Thomas P. Tinker, Esq.).

PLEASE TAKE FURTHER NOTICE that, in the event that there are one or more objection(s) to the Application as filed and served in accordance with the above procedure, 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.

Dated: January 12, 2010
Wilmington, Delaware

ASHBY & GEDDES, P.A.



Gregory A. Taylor (I.D. No. 4008)
Karen B. Skomorucha (I.D. No. 4759)
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Wilmington, Delaware 19899
telephone: (302) 654-1888
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kskomorucha@ashby-geddes.com

- and -

JAGER SMITH P.C.

Bruce F. Smith (admitted *pro hac vice*)
Steven C. Reingold (admitted *pro hac vice*)
Michael J. Fencer (admitted *pro hac vice*)
Brendan C. Recupero (admitted *pro hac vice*)
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sreingold@jagersmith.com
mfencer@jagersmith.com
brecupero@jagersmith.com

*Counsel to the Official
Committee of Unsecured Creditors*

EXHIBIT A

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

In re:) Chapter 11
)
CYNERGY DATA, LLC, *et al.*,¹) Case No. 09-13038 (KG)
)
Debtors.) (Jointly Administered)
)
) **Related Docket Nos. 126, 140**

**ORDER PURSUANT TO 11 U.S.C. §§ 328, 330, AND 1103, AND
FED. R. BANKR. P. 2014 AUTHORIZING THE EMPLOYMENT AND RETENTION
OF JAGER SMITH P.C. AS COUNSEL TO THE OFFICIAL COMMITTEE OF
UNSECURED CREDITORS *NUNC PRO TUNC* TO SEPTEMBER 10, 2009**

Upon consideration of the application dated September 21, 2009 (the "Application")² of the Official Committee of Unsecured Creditors of the above captioned debtors and debtors in possession (the "Committee"), for an order authorizing the Committee to retain and employ the law firm of Jager Smith P.C. (the "Firm" or "Jager Smith") as counsel *nunc pro tunc* to September 10, 2009 pursuant to sections 328, 330, and 1103 of the Bankruptcy Code, and Bankruptcy Rule 2014; and upon consideration of the Smith Affidavit filed in support thereof; and the Court being satisfied based upon the representations made in the Application and the Smith Affidavit that Jager Smith represents no interest adverse to the Committee or the Debtors' unsecured creditors with respect to matters upon which the Firm is to be engaged, that Jager Smith is a "disinterested person" as that term is defined under section 101(14) of the Bankruptcy Code, as modified by section 1107(b) of the Bankruptcy Code, and that Jager Smith's employment is necessary and is in the best interests of the Committee and the Debtors' unsecured creditors; and due and adequate notice of the Application having been given; and it

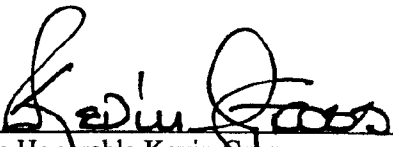
¹ The Debtors are the following entities (with the last four digits of their federal tax identification numbers in parentheses): Cynergy Data, LLC (8677); Cynergy Data Holdings, Inc. (8208); Cynergy Prosperity Plus, LLC (4265). The mailing address for the Debtors is 30-30 47th Avenue, 9th Floor, Long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

² Capitalized terms not defined herein shall have the meanings ascribed to them in the Application.

appearing that no further or other notice is required; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED that:

1. The Application is hereby **GRANTED**.
2. In accordance with section 328 and 1003 of the Bankruptcy Code, the Committee is hereby authorized to retain and employ the law firm of Jager Smith as counsel on the terms set forth in the Application and the Smith Affidavit, effective *nunc pro tunc* to September 10, 2009.
3. Jager Smith shall be entitled to an allowance of compensation and reimbursement of expenses upon the filing and approval of interim and final applications pursuant to the Bankruptcy Code, Bankruptcy Rules, the Local Rules and such other Orders as the Court may direct.
4. The Committee is authorized and empowered to take such actions as may be necessary and appropriate to implement the terms of this Order.
5. This Court shall retain jurisdiction over any and all matters arising from or related to the interpretation or implementation of this Order.

Dated: Wilmington, Delaware
October 20, 2009



The Honorable Kevin Gross
United States Bankruptcy Court

EXHIBIT B-1

Asset Analysis and Recovery

		Hours
12/01/2009		
BFS	Review report from Deloitte re hard drive imaging	0.50
12/04/2009		
MJF	Review and comment on 2004 exam letters (1.0); conference with B. Recupero re: same (2x) (.5); e-mails and telephone conference with B. Smith re: same (.3)	1.80
BCR	Conference with M. Fencer re: 2004 exam letters (2x)	0.50
12/06/2009		
BFS	Email from S. Balaschak re Moneris term sheet (.3); review status to Committee (.5); review costs of asset searches (.4)	1.20
12/09/2009		
BFS	Review Mike Taylor report on remaining pool of unsecured creditors	0.90
12/14/2009		
MJF	E-mails and telephone conference with B. Smith re: Paladini note (.3); e-mails with Deloitte and B. Recupero re: same (.2)	0.50
BFS	Various discussions with M. Fencer re: note	0.30
BCR	Various e-mails re: note	0.20
12/15/2009		
MJF	E-mails with T. Hurley re: FTI work papers and report (.3); review proposed letter agreement re: same (.2)	0.50
BFS	Email re FTI reports	0.40
12/21/2009		
BFS	Review email from R. Diehl re plan status	0.40
BCR	Analysis and review e-mail from M. Taylor re: asset searches (.4); analysis and review e-mail from M. Taylor re: data review and e-discovery (.4); analysis and review cure stipulation re: Fast Trac (.4); review and calendar bar dates (.2)	1.00
BFS	Review Taylor search lists and targets	0.50

Asset Analysis and Recovery

		Hours		
12/22/2009				
BCR	Telephone call from Rob Hora re: discovery letters	0.30		
12/30/2009				
BCR	Analysis and review memo from Mike Taylor re: e-discovery (.6); conference call with M. Taylor, Tim Hurley and M. Fencer re: discovery (.7); follow up with M. Fencer re: same (.4)	1.70		
MJF	E-mails re: conference call (.2); conference call with B. Recupero and Deloitte re: data collection (.7); follow-up conference with B. Recupero re: same and FTI 2004 exam letter (.4)	1.30		
	For Current Services Rendered	12.00	<u>5,035.00</u>	

Recapitulation

Timekeeper	Hours	Hourly Rate	Total
Bruce F. Smith	4.20	\$500.00	\$2,100.00
Brendan C. Recupero	3.70	350.00	1,295.00
Michael J. Fencer	4.10	400.00	1,640.00

Total Current Work 5,035.00

Previous Balance \$43,182.00

12/07/2009 Thank you for your payment. -14,714.00

Balance Due \$33,503.00

		Past Due Amounts			
0-30	31-60	61-90	91-120	121-180	181+
5,035.00	24,147.50	3,678.50	<u>642.00</u>	0.00	0.00

EXHIBIT B-2

Asset Disposition

	Hours
12/02/2009 BCR Review stipulation re: discovery on Moneris cure objection	0.20
12/03/2009 SCR Reviewed deposition notices filed by Moneris (.3); drafted e-mail to committee re: same (.2)	0.50
12/04/2009 MJF Exchange e-mails with A. Bauer re: document production	0.20
12/15/2009 BFS Email re possible settlement of cure litigation MJF E-mails with B. Smith re: possible settlement of cure objections (.2); e-mails with G. Taylor re: hearing (.2)	0.40 0.40
12/16/2009 MJF Telephone conference with B. Smith re: hearing and status (.2); conference with B. Recupero re: same (.3) BFS Telephone conference with M. Fencer re: hearing BCR Conference with M. Fencer re: hearing BCR Review letters to judge re: discovery and continuance of evidentiary hearing (.5); attend telephonic hearing (.5); conference with B. Smith re: hearing and status (.2); attention to upcoming hearing and matters scheduled for Friday's omnibus hearing (.2)	0.50 0.20 0.30 1.40
12/17/2009 MJF Attend telephonic hearing re: cure objection status (.5); follow-up conference with B. Recupero re: same and order (.3); e-mails re: same (.2) BCR Conference with M. Fencer re: objection and hearing order BCR Attention to revised drafts re: stipulation and numerous e-mails re: same (.8); e-mail Alison Bauer re: committee's assent (.1)	1.00 0.30 0.90

Asset Disposition

		Hours	
12/18/2009			
MJF	Various e-mails re: status of cure objection order	0.30	
BCR	Attention to further correspondence re: interim stipulation re: Harris Moneris (.6); e-mail Alison Bauer re: sign off to recent revision (.2); attend omnibus telephonic hearing	1.10	
	For Current Services Rendered	7.70	<u>2,930.00</u>

Recapitulation

Timekeeper	Hours	Hourly Rate	Total
Bruce F. Smith	0.60	\$500.00	\$300.00
Steven C. Reingold	0.50	400.00	200.00
Brendan C. Recupero	4.20	350.00	1,470.00
Michael J. Fencer	2.40	400.00	960.00

Total Current Work	2,930.00
Previous Balance	\$41,262.00

12/07/2009 Thank you for your payment. -27,384.00

Balance Due \$16,808.00

Past Due Amounts					
0-30	31-60	61-90	91-120	121-180	181+
2,930.00	1,110.00	6,846.00	5,922.00	0.00	0.00

EXHIBIT B-3

Case Administration

		Hours
12/01/2009		
BCR	E-mail Karen Skomorucha re: no objection to Unicorn Partners (.2); telephone call to Mike Taylor re: committee makeup (.3)	0.50
VPF	Update pleadings on Web	0.10
12/07/2009		
VPF	Update pleadings on Web	0.10
12/11/2009		
VPF	Update pleadings on Web	0.30
KS	Upload data to Summation database	1.30
12/14/2009		
KS	Review uploaded docs and check error log	0.20
VPF	prepare list of Committee members for disclosure statement	0.50
VPF	Update pleadings on Web	0.30
12/15/2009		
VPF	Update pleadings on Web	0.10
12/22/2009		
VPF	Perform compare and merge on agreement (.4); update pleadings on Web (.2)	0.60
12/28/2009		
VPF	Update pleadings on Web (.1); perform compare and merge on drafts of stipulation extending deadline (.1)	0.20
12/29/2009		
BCR	Attention to registration for telephonic hearing (.2); review pending matters scheduled for hearing (.3)	0.50
12/31/2009		
VPF	Update pleadings on Web	0.10

Official Committee of Unsecured Creditors of In

Page: 2

12/31/2009

Account No:

5593-0004M

Statement No:

49421

Case Administration

For Current Services Rendered

Hours

4.80

900.00

Recapitulation

Timekeeper

Brendan C. Recupero

Vanessa Flavin

Kristin Slack

Hours

1.00

2.30

1.50

Hourly Rate

\$350.00

125.00

175.00

Total

\$350.00

287.50

262.50

Total Current Work

900.00

Previous Balance

\$18,156.00

12/07/2009

Thank you for your payment.

-8,988.00

Balance Due

\$10,068.00

Past Due Amounts

0-30
900.00

31-60
4,667.50

61-90
2,247.00

91-120
2,253.50

121-180
0.00

181+
0.00

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EXHIBIT B-4

Claims Administration and Objections

12/29/2009				Hours	
BCR	Attention to cure notice re: direct technologies (.6); e-mail to Lee Harrington re: cure notice and amount (.3)			0.90	
	For Current Services Rendered			0.90	<u>315.00</u>
			Recapitulation		
<u>Timekeeper</u>			<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
Brendan C. Recupero			0.90	\$350.00	\$315.00
		Total Current Work			315.00
		Previous Balance			\$556.00
		Balance Due			<u>\$871.00</u>
			Past Due Amounts		
	<u>0-30</u>	<u>31-60</u>	<u>61-90</u>	<u>91-120</u>	<u>121-180</u>
	315.00	200.00	0.00	356.00	0.00
					<u>181+</u>
					0.00

EXHIBIT B-5

Fee Applications and Objections

		Hours	
12/03/2009	BCR Review November time and make corrections	0.60	
12/04/2009	BCR Review time and expenses (.5); begin drafting third monthly fee application (1.0); attention to issues re: payment of second monthly fee application (.5)	2.00	
12/07/2009	BCR Draft time descriptions for third monthly fee application	2.80	
12/09/2009	BCR Revise third monthly fee application (.5); compile and review exhibits (.4); draft supplement to Exhibit C (.3)	1.20	
	For Current Services Rendered	6.60	<u>2,310.00</u>

Recapitulation

<u>Timekeeper</u>		<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
Brendan C. Recupero		6.60	\$350.00	\$2,310.00
	Total Current Work			2,310.00
	Previous Balance			\$11,855.00
12/07/2009	Thank you for your payment.			-5,088.00
	Balance Due			<u>\$9,077.00</u>

Official Committee of Unsecured Creditors of In

Page: 2

12/31/2009

Account No: 5593-0008M

Statement No: 49425

Fee Applications and Objections

Past Due Amounts					
<u>0-30</u>	<u>31-60</u>	<u>61-90</u>	<u>91-120</u>	<u>121-180</u>	<u>181+</u>
2,310.00	5,495.00	1,272.00	0.00	0.00	0.00

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EXHIBIT B-6

Financing

		Hours	
12/03/2009			
MJF	Numerous e-mails re: winddown budget and review of same (1.0); numerous e-mails re: status of cash collateral use (.4); telephone conference with lenders and debtors' counsel re: same (.2); conference with B. Recupero re: same (.2); conference with B. Smith re: same (.2); review professional budget (.3)	2.30	
BFS	Conference with M. Fencer re: budget	0.20	
BCR	Conference with M. Fencer re: budget	0.20	
12/29/2009			
MJF	E-mails and telephone conference with debtor's counsel re: cash collateral (.3); telephone conference with B. Smith re: same (.2)	0.50	
BFS	Telephone conference with M. Fencer re: cash collateral issues	0.20	
12/30/2009			
MJF	E-mails with other counsel re: cash collateral stipulation and budget	0.30	
BFS	Review extension of exclusivity and cash collateral and budget issues (.5); review final comments of the agreement (.5)	1.00	
12/31/2009			
MJF	Various e-mails re: budget	0.30	
	For Current Services Rendered	5.00	2,130.00

Recapitulation			
<u>Timekeeper</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
Bruce F. Smith	1.40	\$500.00	\$700.00
Brendan C. Recupero	0.20	350.00	70.00
Michael J. Fencer	3.40	400.00	1,360.00

Official Committee of Unsecured Creditors of In

Page: 2

12/31/2009

Account No:

5593-0009M

Statement No:

49426

Financing

Total Current Work 2,130.00

Previous Balance \$46,794.00

12/07/2009 Thank you for your payment. -27,176.00

Balance Due \$21,748.00

Past Due Amounts					
<u>0-30</u>	<u>31-60</u>	<u>61-90</u>	<u>91-120</u>	<u>121-180</u>	<u>181+</u>
2,130.00	7,040.00	6,794.00	5,784.00	0.00	0.00

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EXHIBIT B-7

Litigation

		Hours
12/01/2009		
BCR	Begin drafting Rule 2004 exam letters	1.80
12/02/2009		
BCR	Attention to and research potential claims against Paladini, Ceballos, Martillo and Oriloney (4.0); further work on 2004 exam letters for Paladini, Ceballos, Martillo and Oriloney (1.5)	5.50
12/03/2009		
SCR	Reviewed and commented re: Rule 2004 letters to four individuals	0.40
BCR	Conference with S. Reingold re: Rule 2004 conference letters (.1); revise Rule 2004 conference letters (.1); review LLC operating agreement (1.9); analysis of managers'/members' fiduciary duties under Delaware law (2.6)	4.70
BFS	Telephone conference with G. Bray (.4); review R 2004 requests (.4); review status of trust discussions (.4)	1.20
12/04/2009		
BCR	Analysis of Delaware case law regarding members' and managers' fiduciary duties to LLC (2.5); incorporate M. Fencer's comments to 2004 conference request letters (.7)	3.20
12/09/2009		
BFS	Review notes and litigation issues and depositions	1.00
12/14/2009		
BCR	Review documents produced by Moneris re: rolling reserve/cure dispute (2.0); analysis of issues re: D&O litigation and exclusions under policies (.5); review matters scheduled for hearing re: discovery requests to buyer on rolling reserve issues (.4); attention to registering for telephonic hearing (.2)	3.10
12/15/2009		
BFS	Deposition of Paladini	6.30

Litigation

		Hours	
12/16/2009			
BFS	Review notices of postponement (.4); review note (.4)	0.80	
	For Current Services Rendered	28.00	11,215.00

Recapitulation			
Timekeeper	Hours	Hourly Rate	Total
Bruce F. Smith	9.30	\$500.00	\$4,650.00
Steven C. Reingold	0.40	400.00	160.00
Brendan C. Recuperero	18.30	350.00	6,405.00

Total Current Work	11,215.00
Previous Balance	\$10,645.00
Balance Due	<u>\$21,860.00</u>

Past Due Amounts					
<u>0-30</u>	<u>31-60</u>	<u>61-90</u>	<u>91-120</u>	<u>121-180</u>	<u>181+</u>
11,215.00	10,645.00	0.00	0.00	0.00	0.00

EXHIBIT B-8

Plan and Disclosure Statement

	Hours
12/01/2009	
BCR Numerous e-mails to Mark Berman re: plan and conference call (.2); review lenders' comments to plan (1.2); conference call with M. Berman re: comments (.3); revise and circulate liquidation trust agreement to lenders (.5)	2.20
BFS Review liquidation trust agreement (1.8); meet with BCR re issues on agreement (.5)	2.30
MJF E-mails re: plan (.3); attend conference call with B. Recupero and M. Berman re: same (.5); exchange calls with D. Drebsky (.2)	1.00
12/03/2009	
BCR Conference with B. Smith re: plan issues with lenders	0.30
BFS Conference with B. Recupero re: plan issues	0.30
MJF Various e-mails re: plan conference call (.3); conference with B. Smith re: same (.2)	0.50
12/04/2009	
BCR Review lenders' comments to plan (.9); e-mail (long) to B. Smith and M. Fencer re: liquidation trust agreement and discussions with lenders (.6); conference with Mark Berman re: comments to plan (.3)	1.80
BFS Review revisions to plan	1.00
MJF E-mails re: revised plan (.2); conference with B. Recupero re: same (.2)	0.40
12/07/2009	
BCR Review correspondence and markup of plan from M. Berman (.3); attention to and further drafting of definitions (.7); e-mail from M. Taylor (.2)	1.20
BFS Review revised plan (.6); telephone call to G. Bray re: same (.3)	0.90
MJF Various e-mails re: plan conference call	0.40
12/09/2009	
MJF E-mails re: plan comments	0.20

Plan and Disclosure Statement

		Hours
12/10/2009		
BCR	Review correspondence and spreadsheets from Mike Taylor re: claims (.2); analysis of plan issues with M. Fencer and B. Smith (.5); conference with Berman re: Diehl's comments (.2); review Comerica's comments (.8); telephone call to Bob Diehl with B. Smith and M. Fencer re: comments (.5); further attention to plan (2.5)	4.70
BFS	Conference call with R. Diehl, MJF and B. Recupero re plan issues (1.0); telephone conference with J. Huston re possible trustee candidates (.5); conference call with MJF, B. Recupero, Mandel, Antoszyk, and Diehl re trustee, trust governance issues (1.0)	2.50
MJF	Conference call with B. Smith and B. Recupero with J. Huston re: liquidating trustee candidates (.5); conference call with B. Smith and B. Recupero with Bob Diehl re: same (.5); e-mails with Deloitte re: claims (.3)	1.30
12/11/2009		
BCR	Conference call with B. Smith and M. Fencer and lenders re: plan (.5); incorporate concepts from lenders re: plan in liquidation trust agreement and further drafting issues re: the same (1.9); review defined terms in the plan and further edits re: the same (2.0)	4.40
BFS	Review info from Brendan re D&O policy (.3); review revised liquidation trust agreement (.8)	1.10
BFS	Conf. call with lenders re: plan issues	1.00
MJF	Prepare for and attend conference call re: plan issue (1.0); various e-mails and telephone conference with other counsel re: same (.5)	1.50
SCR	Conference call with B. Smith and M. Fencer re: plan provisions and funding	0.30
12/14/2009		
BFS	Review email from Berman and Fencer re plan issues	1.00
BFS	Review Berman email regarding D&O policies (.6); email from M. Berman re lender's releases (.3); email from BCR re releases (.2); email from MJF to Berman re releases (.3)	1.40
MJF	Various e-mails with other counsel re: plan and LT status	0.30
12/15/2009		
BFS	Telephone conference with Neil Gilmour re possible trustee	

Plan and Disclosure Statement

		Hours
	candidacy	0.50
12/18/2009		
BFS	Review M. Taylor letter re process and implementation	0.60
12/22/2009		
BCR	Attention to e-mail from lenders re: status (.2); conference with B. Smith re: status (.2); review comparison and e-mail to lenders (.6)	1.00
MJF	Review e-mail re: plan status (.1); conference with B. Recupero and B. Smith re: same (.3); review e-mail from B. Recupero re: same (.1)	0.50
BFS	Meet with BCR re trust issues (.4); review email to lenders re open issues (.3)	0.70
BFS	Telephone conference with R. Diehl re: plan (.5); review email re trust (.4); meet w/ MJF and BCR re trust revisions (.5)	1.30
12/23/2009		
MJF	Conference with B. Recupero and B. Smith re: plan (.3); e-mails re: same (.2)	0.50
BFS	Conference with M. Fencer and B. Recupero re: plan	0.30
BCR	Conference with B. Smith and M. Fencer re: plan status	0.30
12/24/2009		
MJF	E-mails re: plan and trust comments	0.30
BFS	Review Milbank's comments on liquidating trust agreement	0.60
12/28/2009		
BCR	Attention to comments from Lena Mandel re: liquidation trust agreement (.8); incorporate comments and further revise liquidation trust agreement (2.2)	3.00
12/29/2009		
MJF	Various e-mails re: plan status (.3); e-mail to B. Smith re: same (.2)	0.50
BCR	Review open issues re: plan and liquidation trust (.5); e-mail to Lena Mandel (several) re: revised liquidation trust agreement and plan issues (.6); further revisions to liquidation trust agreement (1.0)	2.10
BFS	Review newest draft of trust (.5); discuss with BCR the liquidating trust issues and contents of trust (.4); review email to L. Mandel (.4); review Mandel's comments (.4)	1.70

Plan and Disclosure Statement

		Hours		
12/30/2009	BCR	Review e-mail from Lena Mandel re: further comments to liquidation trust agreement (.5); draft proposed language and e-mail the same to Lena (.2); review release language in plan re: pre-petition professionals (.5)	1.20	
12/31/2009	MJF	Conference with B. Recupero re: trust and plan status (.2); e-mails re: same (.2)	0.40	
	BFS	Review email from BCR re sources of funds for trust	0.30	
		For Current Services Rendered	47.80	19,760.00

Recapitulation

<u>Timekeeper</u>	<u>Hours</u>	<u>Hourly Rate</u>	<u>Total</u>
Bruce F. Smith	17.50	\$500.00	\$8,750.00
Steven C. Reingold	0.30	400.00	120.00
Brendan C. Recupero	22.20	350.00	7,770.00
Michael J. Fencer	7.80	400.00	3,120.00

Total Current Work 19,760.00

Previous Balance \$22,790.00

12/07/2009 Thank you for your payment. -360.00

Balance Due \$42,190.00

Past Due Amounts

<u>0-30</u>	<u>31-60</u>	<u>61-90</u>	<u>91-120</u>	<u>121-180</u>	<u>181+</u>
19,760.00	22,340.00	90.00	0.00	0.00	0.00

JAGER SMITH P.C.

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EXHIBIT C

Expenses

10/08/2009	Telephone charges	1.13
10/15/2009	Telephone charges	1.38
11/02/2009	Telephone charges	2.25
11/09/2009	Westlaw Billing: legal research	360.96
12/01/2009	Telephone charges	1.58
12/31/2009	Telephone charges	1.80
	Total Expenses	<u>369.10</u>
	Total Current Work	369.10
	Previous Balance	\$4,015.93
12/07/2009	Thank you for your payment.	-2,861.08
	Balance Due	<u><u>\$1,523.95</u></u>

Past Due Amounts						
0-30	31-60	61-90	91-120	121-180	181+	
369.10	1,154.85	0.00	0.00	0.00	0.00	

EXHIBIT D

Professionals

Bruce F. Smith, born Orange, New Jersey, 1944. Education: Cornell University (A.B., 1966; J.D., 1969). Phi Kappa Phi; Order of the Coif. Charles Evans Hughes Fellow. Associate Editor, Cornell Law Review, 1968-1969. Law Clerk to the Hon. M. Joseph Blumenfeld, Chief U.S. District Judge, Hartford, Connecticut, 1969-1970. Assistant U.S. Attorney, Civil and Criminal Divisions, Chief, Environmental Litigation Section, Eastern District of New York, 1970-1974. Admitted to practice: 1970, New York, Connecticut, United States District Court, District of Connecticut, Eastern District of New York, Southern District of New York, United States Court of Appeals, Second Circuit; 1974, Massachusetts, United States District Court, District of Massachusetts, United States Court of Appeals, First Circuit; 1998, United States Court of Appeals, Fourth Circuit. Member: Massachusetts Bar Association, Boston Bar Association (Co-Chairman, Bankruptcy Section, Practice and Rules Committee), American Bankruptcy Institute, Turnaround Management Association, Association for Corporate Growth. Practice areas: Insolvency Law, Business Litigation and Environmental Law.

Steven C. Reingold, born Lynn, Massachusetts, 1968. Education: Rutgers University (B.A., 1990); Boston University School of Law (J.D., 1993). Phi Beta Kappa. Note Editor, Boston University Public Interest Law Journal (1992-1993). Author: *Cause and Prejudice: The Rehnquist Court, Habeas Corpus and Judicial Activism*, 3 B.U. Pub. Int. L.J. 141 (1993). Admitted to practice: 1993, New Jersey and United States District Court, District of New Jersey; 1994, New York; 1995, United States District Court, Southern and Eastern Districts of New York; 1999, Massachusetts and United States District Court, District of Massachusetts; 2004, New Hampshire and United States District Court, District of New Hampshire. Adjunct Professor of Law, New England School of Law, 2000-2002. Member: Massachusetts Bar Association, Boston Bar Association. Practice areas: Commercial Litigation and Bankruptcy.

Michael J. Fencer, born Concord, Massachusetts, 1962. Education: Suffolk University College of Arts and Sciences (B.S. *magna cum laude*, 1997); Suffolk University School of Law (J.D. *cum laude*, 2000). Vice President, Moot Court Honor Board, 1999-2000; Suffolk Jurisprudence Awards, Environmental Law, Secured Transactions. Admitted to Practice: 2001, Massachusetts, United States District Court, District of Massachusetts, and United States Court of Appeals for the First Circuit. Law Clerk to the Hon. Joel B. Rosenthal, United States Bankruptcy Court, District of Massachusetts, 2000-2001. Member: Massachusetts Bar Association, Boston Bar Association, American Bankruptcy Institute. Practice Areas: Bankruptcy, Commercial Litigation, and Construction Law.

Brendan C. Recupero. born Boston, Massachusetts, 1974. Education: Saint Anselm College (B.A. 1996); Suffolk University School of Law (J.D. *cum laude*, 1999). Managing Editor, Suffolk University Law Review, 1998-1999; Suffolk Jurisprudence Awards, Constitutional Law. Admitted to Practice: 1999, Massachusetts, United States District Court for the District of Massachusetts. Law Clerk to the Hon. William C. Hillman, United States Bankruptcy Court for the District of Massachusetts, 1999-2000. Co-chair of the Newsletter and Information Services Committee, Bankruptcy Law Section, Boston Bar Association. Member: American Bankruptcy Institute, Boston Bar

Association, Turnaround Management Association. Practice Areas: Bankruptcy and Commercial Litigation.

Kristin Slack. Education: Bridgewater State College (B.A., 2003); Roger Williams University School of Law (J.D., 2007). Admitted to practice: 2008, Massachusetts.

Vanessa Flavin. Education: Boston College (B.A., 2009).

CERTIFICATE OF SERVICE

I, Karen B. Skomorucha, hereby certify that, on January 12, 2010, I caused one copy of the foregoing to be served upon the parties listed below in the manner indicated.

HAND DELIVERY

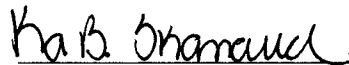
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