

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

In re	)	Chapter 11
	)	
CD LIQUIDATION CO., LLC f/k/a	)	Case No. 09-13038 (KG)
CYNERGY DATA, LLC, et al., <sup>1</sup>	)	
	)	<b>Objection Deadline: April 16, 2010 at 4:00 p.m.</b>
	)	<b>Hearing Date: April 23, 2010 at 10:00 a.m.</b>
Debtors.	)	<b>Related to Docket No. 660</b>

**CERTIFICATION OF COUNSEL REGARDING OMNIBUS MOTION OF THE  
OFFICIAL COMMITTEE OF UNSECURED CREDITORS FOR AN ORDER UNDER  
RULE 2004 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE  
AUTHORIZING EXAMINATIONS OF (I) JOHN MARTILLO, (II) MARCELO  
PALADINI, (III) GUSTAVO CEBALLOS AND (IV) ANDRES ORDONEZ**

I, Karen B. Skomorucha, Esq. of Ashby & Geddes, P.A., co-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, the debtors and debtors in possession in the above-captioned cases, hereby certifies as follows:

1. On March 29, 2010, the Committee filed the *Omnibus Motion of the Official Committee of Unsecured Creditors for an Order Under Rule 2004 of the Federal Rules of Bankruptcy Procedure Authorizing Examinations of (I) John Martillo, (II) Marcelo Paladini, (III) Gustavo Ceballos and (IV) Andres Ordonez* [Docket No. 660] (the "Motion"), seeking entry of an order authorizing the examination by the Committee of (1) John Martillo ("Martillo"), (2) Marcelo Paladini, (3) Gustavo Ceballos and (4) Andres Ordonez pursuant to Rule 2004 of the

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<sup>1</sup> 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.

Federal Rules of Bankruptcy Procedure and Rule 2004-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware.

2. Responses or objections, if any, to the Motion are to be filed by 4:00 p.m. (Eastern time) on April 16, 2010 (the "Objection Deadline"). A hearing on the Motion is scheduled for 10:00 a.m. (Eastern time) on April 23, 2010.

3. Prior to the Objection Deadline, the Committee and Martillo engaged in good faith discussions and conferred and agreed, subject to the Court's approval, to the proposed form of order, attached hereto as Exhibit A (the "Proposed Order").

WHEREFORE the Committee, on behalf of itself and Martillo, respectfully requests that the Court approve and enter the Proposed Order at the Court's earliest convenience.

Dated: April 16, 2010  
Wilmington, Delaware

**ASHBY & GEDDES, P.A**



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*Counsel for the Official Committee of Unsecured  
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**Exhibit A**

**Proposed Order with respect to Martillo**

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

In re	)	Chapter 11
	)	
CD LIQUIDATION CO., LLC f/k/a	)	Case No. 09-13038 (KG)
CYNERGY DATA, LLC, et al., <sup>1</sup>	)	
	)	<b>Related Docket No. 660</b>
Debtors.	)	
	)	

**AGREED ORDER AUTHORIZING OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS TO CONDUCT EXAMINATION OF JOHN MARTILLO PURSUANT TO  
RULE 2004 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

**THIS MATTER** having come before the Court upon the *Omnibus Motion of the Official Committee of Unsecured Creditors for an Order Under Rule 2004 of the Federal Rules of Bankruptcy Procedure Authorizing Examinations of (I) John Martillo, (II) Marcelo Paladini, (III) Gustavo Ceballos and (IV) Andres Ordonez* (the “Motion”); and good and sufficient notice of the Motion<sup>2</sup> having been given; and the Parties<sup>3</sup> having reached an Agreement as to same; it is hereby

**ORDERED** that the Motion is **GRANTED** as set forth herein; and it is further

**ORDERED** that the Committee is authorized to take the oral examination under oath of John Martillo, to be scheduled by agreement between the Parties; and it is further

**ORDERED** that the Committee is authorized to issue document and/or oral examination subpoenas to John Martillo as it deems appropriate in its investigation without further Order of

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<sup>1</sup> 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.

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

the Court, such initial document subpoenas to be in similar scope to the requests set forth in Brendan C. Recuperero's January 5, 2010, correspondence to James W. Kennedy, and subject to and without waiver of the Committee's ability to issue such other and further document and/or oral examination subpoenas to John Martillo and John Martillo's right to object to same and assert privilege with respect to the foregoing; and it is further

**ORDERED** that, in the event that John Martillo takes issue with the Committee as to the appropriate scope of the examination or scope of discovery, or the Committee takes issue with John Martillo's responses, objections, or assertions of privilege concerning the examination or scope of discovery, the Parties shall be permitted to seek a hearing with the Court (either in person or telephonically), subject only to the Court's availability and provided that the Party shall have given the other Party at least ten day's notice thereof; and it is further

**ORDERED** that this Order is without prejudice to the rights of the Parties to seek any further and other relief or the Committee to issue further process with respect to its investigation; and it is further

**ORDERED** that this Court shall retain jurisdiction over any and all matters arising from or relating to the interpretation or implementation of this Order and any process that issues pursuant to its terms.

Dated: April \_\_, 2010  
Wilmington, Delaware

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The Honorable Kevin Gross  
United States Bankruptcy Judge

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<sup>3</sup> John Martillo and the Official Committee of Unsecured Creditors are collectively referred to herein as the "Parties" and individually as a "Party."

**CERTIFICATE OF SERVICE**

I, Karen B. Skomorucha, hereby certify that on April 16, 2010, I caused one copy of foregoing document to be served upon the parties listed on the attached service list in the manner indicated thereon.

  
\_\_\_\_\_  
Karen B. Skomorucha (#4759)

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