

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE 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)

Jointly Administered

Hearing Date: September 13, 2010 at 2:30 p.m. (EST)

Related Docket No. 870

**LIMITED OBJECTION OF PURCHASER TO MOTION FOR ENTRY OF
AN ORDER AUTHORIZING THE RELEASE OF CERTAIN FUNDS
FROM THE CURE ESCROW TO TERM A PARTIES IN REPAYMENT
FOR THE DEBTORS INDEBTEDNESS TO THE TERM A PARTIES**

Cynergy Holdings, LLC, the Purchaser (the "Purchaser") under the Asset Purchase Agreement between and among Cynergy Data, LLC and Cynergy Prosperity Plus, LLC, the Sellers (the "Debtors") dated August 26, 2009 (the "APA"), which was approved by Order of this Court dated October 9, 2009 (the "Sale Order") [Dk No. 258], submits this Limited Objection of Purchaser to Motion for Entry of an Order Authorizing the Release of Certain Funds From the Cure Escrow to Term A Parties in Repayment for the Debtors Indebtedness to the Term A Parties (the "Motion") and in support of this Limited Objection, the Purchaser states as follows:

**Additional Funds Need to Remain in Cure Escrow Until Purchaser and the Debtors Have
Concluded Their Pre- and Post Closing Allocations**

1. In accordance with the APA, the Purchaser and the Debtors are required to agree to an allocation of pre- and post closing assets between an among themselves. They have been unable to do so, as of yet.

2. One open item involves an account receivable that transferred to the Purchaser immediately after the closing and claw-back by the Debtors shortly thereafter. The amount at issue is approximately \$1,900,000. The Purchaser believes the funds belong to it and have requested that the Debtors return these funds to the Purchaser. However, the Debtors believe the funds belong to them and have refused to do so. The parties have been trying to resolve their issues, but so far have been unable to do so. Nowhere in the Motion are these funds mentioned, nor does there appear to be any reserves on any of the exhibits to cover this \$1,900,000.

3. As such, the Purchaser requires reassurance that the Debtors have and will have the \$1,900,000 available to pay to the Purchaser should this matter be resolved in the Purchaser's favor, even after the Debtors release the \$6,839,535 to the Term A Parties.

4. In the event the Debtors are unable to provide this assure, the Purchaser requests that the funds in the Cure Escrow that the Debtors intend to retain be increased to include this \$1,900,000. The Purchaser is concerned that without sufficient funds available to cover this \$1,900,000, should this issue be resolved in favor of the Purchaser, any such victory would ring hallow.

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5. Accordingly, it is respectfully requested that if the Debtors are unable to provide assurance that they have and will have sufficient funds available to cover this \$1,900,000 receivable, that this Court only authorize the release to the Term A Parties by Debtors from the Cure Escrow of \$4,939,535

Dated: September 10, 2010
Wilmington, Delaware

Respectfully submitted,

THE ROSNER LAW GROUP LLC

/s/ Scott J. Leonhardt

Frederick B. Rosner (DE 3995)
Scott J. Leonhardt (DE 4885)
1000 N. West Street, Suite 1200
Wilmington, Delaware 19801
Telephone: (302) 777-1111
Email: rosner@teamrosner.com

Local Counsel for Cynergy Holdings, LLC

AKERMAN SENTERFITT LLP

Susan F. Balaschak
335 Madison Avenue, 26th Floor
New York, NY 10017
Tele: (212) 880-3800
Fax: (212) 880-8965

*Attorneys for Cynergy Holdings, LLC, its
successors and assigns*