

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

)	
In re:)	Chapter 11
)	
CYNERGY DATA, LLC, <i>et al.</i> , ¹)	Case No. 09-13038 (KG)
)	
Debtors.)	Jointly Administered
)	

**STATEMENT OF FINANCIAL AFFAIRS FOR
CYNERGY DATA HOLDINGS, INC.**

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.



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

In re: CYNERGY DATA, LLC, <i>et al.</i> , ² Debtors.	Chapter 11 Case No. 09-13038 (KG) Jointly Administered
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**GLOBAL NOTES AND STATEMENT OF LIMITATIONS, METHODOLOGY,
AND DISCLAIMERS REGARDING THE DEBTORS' SCHEDULES OF
ASSETS AND LIABILITIES AND STATEMENTS OF FINANCIAL AFFAIRS**

The above-captioned debtors and debtors in possession (the “Debtors”), with the assistance of their court-appointed advisors, have prepared their respective schedules of assets and liabilities (the “Schedules”) and statements of financial affairs (the Statements”) pursuant to section 521 of title 11 of the United States Code (the “Bankruptcy Code”) and Rule 1007 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). The Schedules and Statements are unaudited. While management has made reasonable efforts to ensure that the Schedules and Statements are accurate and complete based on information that was available to them at the time of preparation, subsequent information or discovery may result in material changes to these Schedules and Statements, and inadvertent errors or omissions may exist in the Schedules and Statements. Moreover, because the Schedules and Statements contain unaudited information that is subject to further review and potential adjustment, there can be no assurance that these Schedules and Statements are wholly accurate and complete. Nothing contained in the Schedules and Statements shall constitute a waiver of any right of the Debtors, specifically the Debtors’ right to amend these Schedules and Statements and any right with respect to any issues relating to substantive consolidation, equitable subordination, defenses and/or causes of action arising under the provisions of chapter 5 of the Bankruptcy Code and other relevant nonbankruptcy laws. These Global Notes and Statement of Limitations, Methods and Disclaimer Regarding Debtors’ Schedules and Statements (the “Global Notes”) are incorporated by reference in, and comprise an integral part of, the Schedules and Statements, and should be referred to and reviewed in connection with any review of the Schedules and Statements.³

² 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.

³ These Global Notes are in addition to the specific notes contained in the Debtors’ Schedules and Statements. The fact that the Debtors have prepared a Global Note with respect to a particular Schedule (or Statement) and not to others does not reflect, and should not be interpreted as, a decision by the Debtors to exclude the
(Footnote continued on next page)

Global Notes for the Schedules and Statements

1) Case - On September 1, 2009 (the “Petition Date”), the Debtors filed their voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (the “Bankruptcy Code”). Unless otherwise indicated, the information provided is as of the close of business on the Petition Date. On October 9, 2009, the Court entered an Order (the “Sale Order”) approving a sale of substantially all of the Debtors’ assets to purchaser Cynergy Holdings, LLC (“Holdings”).

2) Confidentiality. There may be instances within the Schedules and Statements where names, addresses or amounts have been left blank. Due to the nature of an agreement between the Debtors and the third party, concerns of confidentiality or concerns for the privacy of an individual, the Debtors may have deemed it appropriate and necessary to avoid listing such names, addresses and amounts. To the extent that certain addresses are withheld, the Debtors will make such address available upon reasonable request.

3) Amendments - The Debtors reserve their right to amend the Schedules and Statements in all respects at any time as may be necessary or appropriate, including, without limitation, the right to dispute or to assert offsets or defenses to any claim reflected on the Schedules and Statements as to amount, to liability, or to classification, or to otherwise subsequently designate any claim as “disputed,” “contingent,” or “unliquidated.” Any failure to designate a claim as “contingent,” “unliquidated,” or “disputed” does not constitute an admission.

4) Assumptions - The preparation of the Schedules and Statements requires the Debtors to make assumptions that affect the reported amounts of assets and liabilities, the disclosures of contingent assets and liabilities on the date of the Schedules and Statements and the reported amounts of revenues and expenses during the reporting period.

5) Excluded Assets and Liabilities. The Debtors have excluded the following categories of assets and liabilities from the Schedules and Statements: Petty Cash, QM Reserve Cash Account and related Owed Merchant Funds liabilities that offset each other, Prepaid Transitchex, Intangible Assets (including Residual Buy-Outs that are wholly owned by the Debtors), Leasehold Improvements, Residual Commissions Accrued. Other immaterial assets and liabilities may also have been excluded.

6) Summary of Significant Reporting Policies. The following is a summary of significant reporting policies:

- a. Paid Claims. Pursuant to certain first-day orders issued by the Bankruptcy Court (collectively, the “First Day Orders”), the Bankruptcy Court has authorized (but

(Footnote continued from previous page)

applicability of such Global Note to any or all of the Debtors’ remaining Schedules (or Statements), as appropriate.

not directed) the Debtors to pay certain outstanding prepetition claims, such as certain employee wages and benefit claims, claims for taxes and fees, and other payments made within the ordinary course. These Schedules may reflect prepetition obligations that may have been satisfied pursuant to such First Day Orders. To the extent claims listed on the Schedules are paid pursuant to an order of the Bankruptcy Court (including the First Day Orders), the Debtors reserve all rights to amend or supplement their Schedules and Statements as is necessary and appropriate. Moreover, certain of the First Day Orders preserve the rights of parties in interest to dispute any amounts paid pursuant to First Day Orders. Nothing herein shall be deemed to alter the rights of any party in interest to contest a payment made pursuant to a First Day Order that preserves such right to contest.

- b. Current Market Value of Assets. It would be prohibitively expensive, unduly burdensome and an inefficient use of estate assets for the Debtors to obtain current market valuations of all of their assets. Accordingly, unless otherwise indicated, net book values for assets as of August 31, 2009 are reflected in the Debtors' Schedules and Statements. For this reason, amounts ultimately realized may vary from net book value and such variance may be material.
- c. Contingent Assets. The Debtors believe that they may possess certain claims and causes of action against various parties. Additionally, the Debtors may possess contingent claims in the form of various avoidance actions they could commence under the provisions of the Bankruptcy Code and other relevant non-bankruptcy laws. The Debtors, despite efforts, may not have set forth all of their causes of action against third parties as assets in their Schedules and Statements. The Debtors reserve all of their rights with respect to any claims, causes of action or avoidance actions they may have and nothing contained in these Global Notes or the Schedules and Statements shall be deemed a waiver of any such claims, avoidance actions or causes of action or in any way prejudice or impair the assertion of such claims.

7) Classifications. Listing a claim (a) on Schedule D as "secured," (b) on Schedule E as "priority" or (c) on Schedule F as "unsecured nonpriority," or listing a contract on Schedule G as "executory" or "unexpired," does not constitute an admission by the Debtor of the legal rights of the claimant, or a waiver of the Debtor's right to recharacterize or reclassify such claim or contract. In particular, the Debtors reserve the right to amend the Schedules and Statements to recharacterize or reclassify any such contract or claim.

8) Disputed, Contingent and/or Unliquidated Claims. Schedules D, E and F permit each of the Debtors to designate a claim as "disputed," "contingent" and/or "unliquidated." Any failure to designate a claim on the Debtors' Schedules as "disputed," "contingent" or "unliquidated" does not constitute an admission by the Debtors that such amount is not "disputed," "contingent" or "unliquidated" or that such claim is not subject to objection. The Debtors reserve the right to dispute, or assert offsets or defenses to, any claim reflected on these Schedules as to amount, liability or classification or to otherwise subsequently designate any claim as "disputed," "contingent" or "unliquidated." Listing a claim does not constitute an

admission of liability by the Debtors.

9) Schedule A - Real Property. The Debtors have do not own real property.

10) Schedule B - Personal Property. Personal property owned by any of the Debtors is listed in Schedule B for that individual Debtor. Except as otherwise noted, personal property is scheduled at the value that the Debtors carried on their books as of August 31, 2009.

Accounts receivable listed on B16 is comprised mostly of the amount due from Harris Bank that is the monthly revenue file received on or about the 6th day of each month for the prior month's merchant processing services. The entire amount is listed as due from Harris Bank, instead of from the specific merchants, because Harris Bank ultimately provides the Debtors with those funds every month. The other accounts receivable listed on Schedule B are miscellaneous amounts due from, for example, ISO's, merchants, or agents.

Schedule B18 contains certain loans made to shareholders of the Debtors that remained outstanding as of 9/1/2009. The shareholder loan due from Andres Ordonez is included in the assets purchased by ComVest and is no longer owed to the Debtors. Also on this Schedule are two loans made to ISO's, various pre-paid expenses, and Settlement Assets. These Settlement Assets consist of amounts potentially owed to Cynergy from various merchants due to chargebacks, rejects, fines, and fees. The Settlement Assets listed on B18 are net of various funds owed to merchants and may ultimately be payable to the ISO rather than the Debtors.

Schedule B22. Patents, Copyrights, and Other Intellectual Property. Please refer to Exhibit A of the Global Notes for descriptions of these assets. All of these assets were included in the sale to Holdings.

Schedule B35. Other Personal Property. The Debtors believe they may be entitled to tax refunds because there was most likely an overpayment of taxes from prior years on behalf of certain of the Debtors' Shareholders.

11) Schedule D - Creditors Holding Secured Claims. The Debtors list these amounts as disputed because there is a slight variance between the Debtors' and Lenders' loan balance calculations. This variance is due to certain interest calculations and other fees. Please refer to Exhibit B for a description of Liens for each secured debt.

12) Schedule E - Creditors Holding Unsecured Priority Claims. The Debtors listed amounts owed as of the filing date to employees including; wage claims and earned unused vacation days. The amounts listed here are contingent because the Debtors may not be liable for these amounts if the purchaser assumes these liabilities. The amounts are also disputed because the Debtors cannot guarantee the accuracy of these amounts because they may not have been entirely earned by the employee as of the filing date.

13) Schedule F - Creditors Holding Unsecured Nonpriority Claims. The Debtors may owe amounts to: certain vendors for goods and services provided; merchants for unfunded rolling reserves; ISO's for commissions that have been withheld and unfunded EP Reserves; and a

former shareholder for amounts owed to him. There is also a Letter of Credit from Comerica Bank for \$165,000 that is scheduled as a contingent liability. All unsecured nonpriority items are listed as disputed because the Debtors cannot be certain that these amounts are accurate and are due and owing.

14) Schedule G - Unexpired Leases and Executory Contracts. The Debtors listed all contracts to which they may be a party. The Debtors lose merchants on a daily basis; therefore this list may reflect contracts that have been terminated.

15) Schedule H - Co-Debtors. Cynergy Data Holdings, Inc. is the parent company of Cynergy Data, LLC and is a Co-Debtor to all secured Debts owed by Cynergy Data, LLC. Cynergy Data, LLC wholly owns Cynergy Prosperity, LLC and is a Co-Debtor to the secured amounts owed by Cynergy Prosperity, LLC. Marcelo Paladini has a personal guarantee of up to \$10,000,000 of the secured debts listed on Schedule D.

16) Statements- Question 3 Payments to Creditors. 3(b) The Debtors attached five (5) check registers for each of their bank accounts that show all transfers made within ninety (90) days of the Petition Date. 3(c) The Debtors listed all transfers to or on behalf of each of the four current and former shareholders. These amounts consist of wages, housing payments, car payments, and payments made to various tax authorities to cover amounts owed by these shareholders. In most cases, the transfers were not made to the shareholder but instead directly to the payee on behalf of such shareholder. Other transfers may have been made on behalf of these shareholders that are not scheduled here.

17) Statements - Question 4(a) Suits and Administrative Proceedings. Attached as Exhibit C is a summary description of any litigation to which the Debtors have been a party in the past year.

18) Statements - Question 9 Payments Related to Debt Counseling or Bankruptcy. Transfers in this schedule include all payments made to those professionals that were retained in connection with these bankruptcy cases and FTI Consulting.

19) Statements - Question 10(a) Property Transferred within Two Years. The Debtors listed two transactions that occurred outside the ordinary course of business within the past two years. The first is the sale of 20% of the Debtors 37.5% stake in Transworks, LLC to Transworks, LLC for \$800,000. The second is the Debtors' purchase of John Martillo's remaining shares in the Debtors for \$31,500,000. Prior to this transaction with John Martillo, the Debtors purchased a large portion of his shares in April 2007 for \$15,000,000. This transaction is not listed here because it occurred more than two years prior to the Petition Date.

20) Statements - Question 13 Setoffs. On or about 6/26/2009, Harris Bank setoff \$6,665,607.86 to cover the underfunded QM reserve balance held at Harris Bank. This amount was setoff from the Debtors' monthly revenue received from Harris Bank each month.

21) Statements - Question 18 Ownership in Entities. All of the entities listed are partially owned by the Debtors and were included in the sale to Holdings.

22) Statements - Questions 19(a)(b)(c)(d) Bookkeeping, Accounting, Financial Statements. The Debtors listed those accounting and finance employees that held the position of either Controller or CFO within the past two years, those accounting and consulting firms that either audited or assisted with the preparation of financial statements within the past two years, the individuals and firms that were in possession of the books and records as of the filing date, and the lenders that were provided copies of the Debtors' financial statements. Please note that the Debtors did not include those firms and individuals that provided the Debtors' financial statements during the sale process.

23) Statements - Questions 21(b) and 22(b) Current and Former Directors, Officers, and Stockholders Owning more than 5%. Marcelo Paladini owns more than 5% of the Debtors and is a director of the Debtors. Andres Ordonez and Gustavo Ceballos own less than 5% but are managers of the Debtors and are therefore listed here.

24) Statements - Question 25 Pension Funds. The Debtors do not contribute to a Pension Fund but do participate in a 401(k) plan with their employees that is not listed here.

CYNERGY DATA INTELLECTUAL PROPERTY PORTFOLIO

Prepared by Peter M. Falkenstein
 Jaffe Raitt Heuer & Weiss, PC
Updated as of July 6, 2009
 Revises version of January 9, 2009

Trademarks and Service Marks:

<u>Mark</u>	<u>Reg*. or Filing Date</u>	<u>Reg. or Serial No.</u>	<u>Classes</u>	<u>Owner</u>	<u>Next Action</u>
CYNERGY DATA	*December 23, 2003	2797089	036	Cynergy Data, LLC	Sec. 8&15 Aff. Due 12/23/2009
CYNERGY DATA, with design	*March 16, 2004	2822474	036	Cynergy Data, LLC	Sec. 8&15 Aff. Due 03/16/2010
CYNERGY DATA YOUR LAST ACQUIRER	*June 8, 2004	2850502	036	Cynergy Data, LLC	Sec. 8&15 Aff. Due 06/08/2010
Design [Teardrops]	*July 12, 2005	2966052	036	Cynergy Data, LLC	Sec. 8&15 Aff. Due 07/12/2011

<u>Mark</u>	<u>Reg*. or Filing Date</u>	<u>Reg. or Serial No.</u>	<u>Classes</u>	<u>Owner</u>	<u>Next Action</u>
VIMAS	*January 10, 2006	3038842	042	Cynergy Data, LLC	Sec. 8&15 Aff. Due 01/10/2012
CYNERGY PROSPERITY PLUS	*March 10, 2009	3588181	036	Cynergy Prosperity Plus, LLC	Sec 8&15 Aff. Due 03/10/2015
LUCY	*May 26, 2009	3625346	036	Cynergy Data, LLC	Sec. 8&15 Aff. Due 05/26/2015
LET US CONNECT YOU	*March 10, 2009	3585497	036	Cynergy Data, LLC	Sec. 8&15 Aff. Due 03/10/2015
LUCY GATEWAY	*June 2, 2009	3629546	036	Cynergy Data, LLC	Sec. 8&15 Aff. Due 06/02/2015
CYNERGY HUB	July 11, 2008	77/519732	009	Cynergy Data, LLC	Notice of Allowance Issued 02/24/2009; Statement of Use or Request for Extension due 08/24/2009

Copyrights:

<u>Title of Work</u>	<u>Reg. Date</u>	<u>Reg. No.</u>	<u>Nature of Work</u>	<u>Owner</u>
VIMAS Internet Website	12/12/2003	TXu001148583	Internet website	CPS Group, Inc.
VIMAS Cynergy Data: The next necessity	07/26/2004	TXu001189268	VIMAS Internet website	CPS Group, Inc.
VIMAS pro Cynergy Data: The next necessity	07/26/2004	TXu001189267	VIMAS ep Internet website	CPS Group, Inc.
VIMAS pro ep Cynergy Data: The next necessity	07/26/2004	TXu001189269	VIMAS pro Internet website	CPS Group, Inc.

Exhibit B

Lien Descriptions

The Prepetition Senior Lender Indebtedness (Excluding Harris Interchange Financing and the Cynergy Data Prosperity Senior Indebtedness) is secured by all assets of Debtors, including without limitation, all of their respective now owned or after acquired:

accounts;

chattel paper (whether tangible chattel paper or electronic chattel paper);

general intangibles (including, without limitation, payment intangibles);

equipment;

inventory and goods;

documents;

instruments (including, without limitation, promissory notes);

deposit accounts and any other cash collateral, deposit or investment accounts, including all cash collateral, deposit or investment accounts established or maintained pursuant to the terms of the Security Agreement (as defined below) or the other Prepetition Senior Loan Documents, together with all cash and other assets and property from time to time deposited therein and the monies, assets and properties in the possession or control of Prepetition Senior Agent or any Prepetition Senior Lender or any affiliate, representative, agent or correspondent of Prepetition Senior Agent or any Prepetition Senior Lender;

computer records and software, whether relating to the foregoing collateral or otherwise, but in the case of such software, subject to the rights of any non-affiliated licensee of software;

investment property;

commercial tort claims listed in the Prepetition Senior Loan Documents, if any; and

the proceeds, in cash or otherwise, of any of the property described in the foregoing clauses (a) through (k) and all liens, security, rights, remedies and claims of such debtor with respect thereto;

all as more particularly described in the Security Agreement executed by Debtors in favor of Prepetition Senior Agent dated April 16, 2007 (as amended "Security Agreement"). The Prepetition Senior Lender Indebtedness is also secured by (a) all of Andres Ordonez's shares of stock of Holdings, (b) all of Marcelo Paladini's shares of stock of Holdings, and (c) all of Gustavo Ceballos's shares of stock in Holdings.

The Harris Interchange Financing is secured by all merchant processing revenue that is received by the Debtors from Harris bank each month and is more particularly described in the Intercreditor Agreement dated on or about 5/28/2009.

The Cynergy Prosperity, LLC Prepetition Senior Lender Indebtedness is secured by all assets of Cynergy Prosperity, LLC.

Exhibit C Litigation Overview

With approximately 72,000 merchants and over 500 active Independent Sales Organizations, it is not uncommon for Cynergy Data to receive claim letters from its clients seeking reimbursement of certain fees or losses. The vast majority of these claims are due to misunderstandings or miscommunications that are quickly resolved. Occasionally, some of the matters that cannot be resolved lead to litigation. Following is a summary of the material litigations which are currently pending:

(1) In June, 2009, Tribul Merchant Services, LLC, Second Source Funding, LLC and Sam Chanin (collectively ("Plaintiffs") filed suit in state court in New York, New York against Cynergy Data, LLC Cynergy Data's wholly owned subsidiary, Cynergy Prosperity Plus, LLC and three Cynergy Data executives. Plaintiffs' lawsuit was filed after Cynergy Prosperity Plus, LLC commenced foreclosure proceedings with regard to an \$8,000,000.00 loan to Second Source Funding, LLC that was in default. Plaintiffs' complaint seeks a judgment declaring that such default did not occur, seeks an accounting of fees and costs charged by Defendants to Plaintiffs and contains allegations of tortious interference with contractual relations. The Complaint seeks in excess of \$10,000,000.00 in compensatory damages. The Court dismissed this case on September 8, 2009, on administrative grounds. It is not presently known whether Plaintiffs will seek to restore the case or re-file, nor has Cynergy Data determined whether it will commence litigation against the Plaintiffs.

(2) In March, 2009, Kassap Family Limited Partnership and several related parties (collectively "Plaintiffs") commenced a lawsuit against Cynergy Data and various other defendants in state court in Baltimore, Maryland. Plaintiffs allege that Cynergy Data purchased a portfolio of merchants and a corresponding commission income stream that were subject to a security interest held by Plaintiffs. Those merchants are alleged to have served as a portion of the collateral for a loan that Plaintiffs made to Shimgil Holding ("Shimgil"), one of Cynergy Data's Independent Sales Organizations. The Complaint thus seeks a judgment declaring that the Plaintiffs have a first-priority security interest in the merchant commission income and that Cynergy Data must surrender proceeds generated from the income stream until such time as the Plaintiffs loans to Shimgil are paid in full. Cynergy Data has denied all allegations and contends that there was no evidence of a perfected security interest at the time Cynergy Data purchased the merchant portfolio at issue. The Plaintiffs' loans to Shimgil total \$2,150,000.00.

(3) On August 13, 2009, Cynergy Data received a Summons and Complaint from Merchant Processing Services Corp. ("MPS"), one of its Independent Sales Organizations ("ISO"), referable to an action commenced in state court in New York, New York. MPS alleges, *inter alia*, breach of its ISO Conduit Processing Agreement with Cynergy Data, dated September 27, 2007, and breach of a Settlement and Modification Agreement, dated June 24, 2009, and seeks damages amounting to \$340,481.18. Although a final determination has not yet been made, it is anticipated that Cynergy Data will, in its answer to the Complaint, assert a counterclaim in the amount of approximately \$1,550,000 by virtue of MPS's alleged failure to perform pursuant to a Residual Purchase Agreement entered into between the parties on October 15, 2008.

(4) *American Retail Group, Inc. v. EMG Assoc. and Cynergy Data*

- Circuit Court for Orange County, Florida Index No.: 06-CA-8346
- ISO, EMG Assoc. has agreed to indemnify Cynergy Data and has retained their counsel to represent Cynergy.
- Bennett R. Ford, Esq. Law Offices of Mark L. Horwitz, 17 East Pine Street, Orlando, Florida 32801, (407) 843-7733

(5) *Atlantic Global Transportation v. Cynergy Data, et al.*

- Civil Court of the City of New York, Small Claims Part – Queens County
- Veronica Wayner, Esq., Callan, Koster, Brady & Brennan, LLP, One Whitehall Street, New York, New York 10004, (212) 248-8800

(6) *Cardona, Virgilio v. 45 W. 36th St. Realty, et al.*

- Supreme Court, New York County - Index No.: 116603/06
- Law Offices of James J. Toomey, 485 Lexington Avenue, 7th Floor, New York, New York 10017, (917) 778-6600

(7) *CPS Group Inc. v. Gastro Enterprises Corp.*

- Supreme Court, Queens County – Index No.: 10233/06
- Michael J. Levin, Esq., Barger & Wolen, LLP, 10 East 40th Street, 40th Floor, New York, New York 10016, (212) 557-2800

FORM 7 - STATEMENT OF FINANCIAL AFFAIRS
UNITED STATES BANKRUPTCY COURT
District of Delaware

In re: Cynergy Data Holdings, Inc.

Case No. 09-13039 (KG)

STATEMENT OF FINANCIAL AFFAIRS

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs. To indicate payments, transfers and the like to minor children, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

Questions 1 - 18 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 19 - 25. **If the answer to an applicable question is "None," mark the box labeled "None."** If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed full-time or part-time. An individual debtor also may be "in business" for the purpose of this form if the debtor engages in a trade, business, or other activity, other than as an employee, to supplement income from the debtor's primary employment.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any owner of 5 percent or more of the voting or equity securities of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; any managing agent of the debtor. 11 U.S.C. § 101.

1. Income from employment or operation of business

State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business, including part-time activities either as an employee or in independent trade or business, from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the **two years** immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NONE	AMOUNT	SOURCE
<input checked="" type="checkbox"/>		

2. Income other than from employment or operation of business

State the amount of income received by the debtor other than from employment, trade, profession, operation of the debtor's business during the **two years** immediately preceding the commencement of this case. Give particulars. If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income for each spouse whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NONE	AMOUNT	SOURCE
X		

3. Payment to creditors

Complete a. or b., as appropriate, and c.

a. *Individual or joint debtor(s) with primarily consumer debts:* List all payments on loans, installment purchases of goods or services, and other debts to any creditor made within **90 days** immediately preceding the commencement of this case unless the aggregate value of all property that constitutes or is affected by such transfer is less than \$600. Indicate with an asterisk (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and credit counseling agency.

NONE	NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS	AMOUNT PAID	AMOUNT STILL OWING
X				

b. *Debtor whose debts are not primarily consumer debts:* List each payment or other transfer to any creditor made within **90 days** immediately preceding the commencement of the case unless the aggregate value of all property that constitutes or is affected by such transfer is less than \$5,475. If the debtor is an individual, indicate with an asterisk (*) any payments that were made to a creditor on account of domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and credit counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments and other transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NONE	NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS/ TRANSFERS	AMOUNT PAID OR VALUE OF TRANSFERS	AMOUNT STILL OWING
X				

c. *All debtors:* List all payments made within **one year** immediately preceding the commencement of this case to or for the benefit of creditors who are or were insiders. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NONE	NAME AND ADDRESS OF CREDITOR AND RELATIONSHIP TO DEBTOR	DATE OF PAYMENT	AMOUNT PAID	AMOUNT STILL OWING
X				

4. Suits and administrative proceedings, executions, garnishments and attachments

a. List all suits and administrative proceedings to which the debtor is or was a party within **one year** immediately preceding the filing of this bankruptcy case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NONE	CAPTION OF SUIT AND CASE NUMBER	NATURE OF PROCEEDING	COURT OR AGENCY AND LOCATION	STATUS OR DISPOSITION
	Refer to Global Notes			

b. Describe all property that has been attached, garnished or seized under any legal or equitable process within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NONE	NAME AND ADDRESS OF PERSON FOR WHOSE BENEFIT PROPERTY WAS SEIZED	DATE OF SEIZURE	DESCRIPTION AND VALUE OF PROPERTY
X			

5. Repossessions, foreclosures and returns

List all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NONE	NAME AND ADDRESS OF CREDITOR OR SELLER	DATE OF REPOSSESSION, FORECLOSURE SALE, TRANSFER OR RETURN	DESCRIPTION AND VALUE OF PROPERTY
X			

6. Assignments and receiverships

a. Describe any assignment of property for the benefit of creditors made within **120 days** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include any assignment by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NONE	NAME AND ADDRESS OF ASSIGNEE	DATE OF ASSIGNMENT	TERMS OF ASSIGNMENT OR SETTLEMENT
X			

b. List all property which has been in the hands of a custodian, receiver, or court-appointed official within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NONE	NAME AND ADDRESS OF CUSTODIAN	NAME AND LOCATION OF COURT CASE TITLE NUMBER	DATE OF ORDER	DESCRIPTION AND VALUE OF PROPERTY
X				

7. Gifts

List all gifts or charitable contributions made within **one year** immediately preceding the commencement of this case except ordinary and usual gifts to family members aggregating less than \$200 in value per individual family member and charitable contributions aggregating less than \$100 per recipient. (Married debtors filing under chapter 12 or chapter 13 must include gifts or contributions by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NONE	NAME AND ADDRESS OF PERSON OR ORGANIZATION	RELATIONSHIP TO DEBTOR, IF ANY	DATE OF GIFT	DESCRIPTION AND VALUE OF GIFT
X				

8. Losses

List all losses from fire, theft, other casualty or gambling within **one year** immediately preceding the commencement of this case or **since the commencement of this case**. (Married debtors filing under chapter 12 or chapter 13 must include losses by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NONE	DESCRIPTION AND VALUE OF PROPERTY	DESCRIPTION OF CIRCUMSTANCE AND, IF LOSS WAS COVERED IN WHOLE OR IN PART BY INSURANCE, GIVE PARTICULARS	DATE OF LOSS
X			

9. Payments related to debt counseling or bankruptcy

List all payments made or property transferred by or on behalf of the debtor to any persons, including attorneys, for consultation concerning debt consolidation, relief under the bankruptcy law or preparation of a petition in bankruptcy within **one year** immediately preceding the commencement of this case.

NONE	NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYER IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
X			

10. Other transfers

a. List all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within **two years** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NONE	NAME AND ADDRESS OF TRANSFEREE, RELATIONSHIP TO DEBTOR	DATE	DESCRIBE PROPERTY TRANSFERRED AND VALUE RECEIVED
	John Martillo 105 Decker Ct 650 Irving, TX 75062 Owner Officer Dir	11/15/2007	Purchased remainder of John Martillo's ownership \$31,500,000.00

b. List all property transferred by the debtor within **ten years** immediately preceding the commencement of this case to a self-settled trust or similar device of which the debtor is a beneficiary.

NONE	NAME OF TRUST OR OTHER DEVICE	DATE(S) OF TRANSFER(S)	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY OR DEBTOR'S INTEREST IN PROPERTY
X			

11. Closed financial accounts

List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within **one year** immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by or for either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NONE	NAME AND ADDRESS OF INSTITUTION	TYPE OF ACCOUNT, LAST FOUR DIGITS OF ACCOUNT NUMBER, AND AMOUNT OF FINAL BALANCE	AMOUNT AND DATE OF SALE OR CLOSING
X			

12. Safe deposit boxes

List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NONE	NAME AND ADDRESS OF BANK OR OTHER DEPOSITORY	NAMES AND ADDRESSES OF THOSE WITH ACCESS TO THE BOX OR DEPOSITORY	DESCRIPTION OF CONTENTS	DATE OF TRANSFER OR SURRENDER, IF ANY
X				

13. Setoffs

List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within **90 days** preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NONE	NAME AND ADDRESS OF CREDITOR	DATE OF SETOFF	AMOUNT OF SETOFF
X			

14. Property held for another person

List all property owned by another person that the debtor holds or controls.

NONE	NAME AND ADDRESS OF OWNER	DESCRIPTION AND VALUE OF PROPERTY	LOCATION OF PROPERTY
X			

15. Prior address of debtor

If the debtor has moved within the **three years** immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

NONE	ADDRESS	NAME USED	DATES OF OCCUPANCY
	45 W 36th St New York, NY 10018	Manhattan Office	June 2004 - May 2009
	109-15 14th Ave Ste 200 College Point, NY 11356	College Point Office	January 2000 - March 2009

16. Spouses and Former Spouses

If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within **eight years** immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

NONE	NAME
X	

17. Environmental Information.

For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes, or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

"Hazardous Material" means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law.

a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law:

NONE	SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
X				

b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

NONE	SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
X				

c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.

NONE	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DOCKET NUMBER	STATUS OR DISPOSITION
X			

18. Nature, location and name of business

a. *If the debtor is an individual*, list the names, addresses, taxpayer-identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partner in a partnership, sole proprietor, or was self-employed in a trade, profession, or other activity either full – or part-time within **six years** immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within **six years** immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer-identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within **six years** immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer-identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within **six years** immediately preceding the commencement of this case.

NONE	NAME	LAST FOUR DIGITS OF SOCIAL-SECURITY OR OTHER INDIVIDUAL TAXPAYER-I.D. NO. (ITIN)/COMPLETE EIN	ADDRESS	NATURE OF BUSINESS	BEGINNING AND ENDING DATES
X					

b. Identify any business listed in response to subdivision a., above, that is "single asset real estate" as defined in 11 U.S.C. § 101.

NONE	NAME	ADDRESS
X		

The following questions are to be completed by every debtor that is a corporation or partnership and by any individual debtor who is or has been, within **six years** immediately preceding the commencement of this case, any of the following: an officer, director, managing executive, or owner of more than 5 percent of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership, a sole proprietor, or self-employed in a trade, profession, or other activity, either full- or part-time.

*(An individual or joint debtor should complete this portion of the statement **only** if the debtor is or has been in business, as defined above, within six years immediately preceding the commencement of this case. A debtor who has not been in business within those six years should go directly to the signature page.)*

19. Books, records and financial statements

a. List all bookkeepers and accountants who within **two years** immediately preceding the filing of this bankruptcy case kept or supervised the keeping of books of account and records of the debtor.

NONE	NAME AND ADDRESS	DATES SERVICES RENDERED
	Michael D'Alauro Controller 86 Bailey Ave Patchogue, NY 11772	November 2008 - Current
	Michael Kennedy CFO 251 E 51st St Apt 3J New York, NY 10022	June 2008 - January 2009
	Kathleen Buckley Controller 69 Quintard Ave Norwalk, CT 06854	January 2006 - August 2008
	Gustavo Cebellos CFO 531 N Monroe St Ridgewood, NJ 07450	February 2009 - April 2009
	Adi Raviv CFO 320 E 72nd St New York, NY 10021	April 2009 - August 2009

b. List all firms or individuals who within **two years** immediately preceding the filing of this bankruptcy case have audited the books of account and records, or prepared a financial statement of the debtor.

NONE	NAME	ADDRESS	DATES SERVICES RENDERED
	JH Cohn LLP	Auditor/Accountant 4 Becker Farm Rd PO Box 954 Roseland, NJ 07068	November 2008 - February 2009
	Wall & Associates CPA	Auditor/Accountant 1065 S Main St Cheshire, CT 06410	November 2008 - December 2008
	FTI	Consultant PO Box 630391 Baltimore, MD 12163	March 2009 - May 2009
	Capossela, Cohen, LLC	Auditor/Accountant 368 Center St Southport, CT 06890	February 2008 - March 2008 and February 2009
	Presti & Naegele	Auditor/Accountant 1615 Northern Blvd Ste 200 Manhasset, NY 11030	April 2007 - May 2007 and August 2007

c. List all firms or individuals who at the time of the commencement of this case were in possession of the books of account and records of the debtor. If any of the books of account and records are not available, explain.

NONE	NAME	ADDRESS
	CMD Management Services LLC - Interim Management	401 S Old Woodward Ave Ste 340 Birmingham, MI 48009
	Michael D'Alauro - Controller	86 Bailey Ave Patchogue, NY 11772

d. List all financial institutions, creditors and other parties, including mercantile and trade agencies, to whom a financial statement was issued by the debtor within **two years** immediately preceding the commencement of this case.

NONE	NAME AND ADDRESS	DATE ISSUED
	See SOFA 19d Attachment	

20. Inventories

a. List the dates of the last two inventories taken of your property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory.

NONE	DATE OF INVENTORY	INVENTORY SUPERVISOR	DOLLAR AMOUNT OF INVENTORY (Specify cost, market or other basis)
X			

b. List the name and address of the person having possession of the records of each of the inventories reported in a., above.

NONE	DATE OF INVENTORY	NAME AND ADDRESS OF CUSTODIAN OF INVENTORY RECORDS
X		

21. Current Partners, Officers, Directors and Shareholders

a. If the debtor is a partnership, list the nature and percentage of partnership interest of each member of the partnership.

NONE	NAME AND ADDRESS	NATURE OF INTEREST	PERCENTAGE OF INTEREST
X			

b. If the debtor is a corporation, list all officers and directors of the corporation, and each stockholder who directly or indirectly owns, controls, or holds 5 percent or more of the voting or equity securities of the corporation.

NONE	NAME AND ADDRESS	TITLE	NATURE AND PERCENTAGE OF STOCK OWNERSHIP
	Andres F. Ordonez 171 Hickory Hill Totowa, NY 07512	Manager	
	Gustavo D Ceballos 531 N Monroe St Ridgewood, NJ 07450	Manager	
	Marcelo Paladini 88 Laight St No. 9 New York, NY 00001-0013	Manager	95% Owner of Cynergy Holdings, LLC

22. Former partners, officers, directors and shareholders

a. If the debtor is a partnership, list each member who withdrew from the partnership within **one year** immediately preceding the commencement of this case.

NONE	NAME	ADDRESS	DATE OF WITHDRAWAL
X			

b. If the debtor is a corporation, list all officers or directors whose relationship with the corporation terminated within **one year** immediately preceding the commencement of this case.

NONE	NAME AND ADDRESS	TITLE	DATE OF TERMINATION
	Gustavo D. Ceballos 531 N Monroe St Ridgewood, NJ 07450	CFO	7/1/2009

23. Withdrawals from a partnership or distributions by a corporation

If the debtor is a partnership or corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during **one year** immediately preceding the commencement of this case.

NONE	NAME AND ADDRESS OF RECIPIENT, RELATIONSHIP TO DEBTOR	DATE AND PURPOSE OF WITHDRAWAL	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
X			

24. Tax Consolidation Group.

If the debtor is a corporation, list the name and federal taxpayer-identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within **six years** immediately preceding the commencement of the case.

NONE	NAME OF PARENT CORPORATION	TAXPAYER-IDENTIFICATION NUMBER(EIN)
X		

25. Pension Funds

If the debtor is not an individual, list the name and federal taxpayer-identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within six years immediately preceding the commencement of the case.

NONE	NAME OF PENSION FUND	TAXPAYER-IDENTIFICATION NUMBER(EIN)
X		

In re: Cynergy Data Holdings, Inc

Case No. 09-13039

SOFA 19d

Books, records and financial statements - Financial institution to whom financial statement was issued

Name	Address 1	Address 2	City	State	Zip	Date Issued
Harris Bank	PO Box 755		Chicago	IL	60690	Multiple
Comerica Bank	One Detroit Ctr	500 Woodward Ave MC3251 6th Fl	Detroit	MI	48226	Multiple
Wells Fargo Foothill LLC	One Boston Place	18th Floor	Boston	MA	02108	Multiple
Garrison Credit Opportunities Holdings, L.P.	1350 Avenue of the Americas		New York	NY	10019	Multiple
Dymas Funding Company, LLC	One North Franklin Street, 35th Fl, Chicago, IL 60606	35th Floor	Chicago	IL	60606	Multiple
Bank of America	100 North Tryon Street		Charlotte	NC	28201	Multiple

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE**

In re: Cynergy Data Holdings, Inc.

Case No. 09-13039 (KG)

Declaration Concerning Debtor's Statement of Financial Affairs

I, Lorraine Ossolinski, Interim Chief Financial Officer of the corporation named as debtor in this case, declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct to the best of my knowledge, information and belief.

Date 10/30/2009

Signature: /s/ Lorraine Ossolinski

Lorraine Ossolinski

Interim Chief Financial Officer