

SILVERMANACAMPORA LLP
Counsel to Kenneth P. Silverman, Esq.,
Chapter 7 Trustee
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300
Jay S. Hellman, Esq.
David J. Mahoney, Esq.

Presentment Date: August 13, 2012
Time: 2:00 p.m.

Objections Due: August 6, 2012
Time: 5:00 p.m.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

AGAPE WORLD, INC.,
AGAPE MERCHANT ADVANCE LLC,
AGAPE COMMUNITY LLC, AGAPE
CONSTRUCTION MANAGEMENT LLC,
AGAPE WORLD BRIDGES LLC, AND
114 PARKWAY DRIVE SOUTH LLC,

Debtors.

Chapter 7
Case No.: 09-70660 (DTE)
Substantively Consolidated

-----X
KENNETH P. SILVERMAN, ESQ., as
Chapter 7 Trustee of Agape World, Inc., *et al.*,

Plaintiff,

Adv. Pro. No.: 10-08261 (DTE)

-against-

MILLENNIO ENTERPRISES INC.,

Defendant.

-----X
KENNETH P. SILVERMAN, ESQ., as
Chapter 7 Trustee of Agape World, Inc., *et al.*,

Plaintiff,

Adv. Pro. No.: 11-09073 (DTE)

-against-

MILLENNIO ENTERPRISES INC.,

Defendant.
-----X

**AMENDED NOTICE OF PRESENTMENT OF PROPOSED ORDER UNDER
BANKRUPTCY RULE 9019(a) APPROVING A STIPULATION OF
SETTLEMENT BETWEEN THE TRUSTEE AND MILLENNIO ENTERPRISES INC.**

PLEASE TAKE NOTICE, that upon the supplemental application (the "Supplemental Application") of Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") for the

substantively consolidated estate of Agape World, Inc., *et al.*, by his counsel, SilvermanAcampora LLP, the Trustee will present a proposed order (annexed hereto as **Exhibit 1**) before the Honorable Dorothy T. Eisenberg, United States Bankruptcy Court for the Eastern District of New York, located at Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, New York 11722 on **August 13, 2012 at 2:00 p.m.**, seeking approval of the Stipulation of Settlement between the Trustee and Millennio Enterprises Inc.

PLEASE TAKE FURTHER NOTICE, that objections, if any, to the relief requested in the Application or the proposed Order must be (i) made in writing; (ii) electronically filed with the Bankruptcy Court; (iii) delivered to Chambers of the Honorable Dorothy T. Eisenberg, United States Bankruptcy Judge, United States Bankruptcy Court, Eastern District of New York, Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, New York 11722; (iv) mailed to SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753, Attn: David J. Mahoney, Esq.; and (v) mailed to the Office of the United States Trustee, 560 Federal Plaza, Central Islip, New York 11722, no later than **August 6, 2012 at 5:00 p.m.**

PLEASE TAKE FURTHER NOTICE, that if objections to the Supplemental Application are filed and served in compliance with the above-paragraph, the Court will schedule a hearing on the Supplemental Application.

Dated: Jericho, New York
July 12, 2012

SILVERMANACAMPORA LLP
Counsel to Kenneth P. Silverman, Esq., the
Chapter 7 Trustee

By: s/ David J. Mahoney
Jay S. Hellman
David J. Mahoney
Members of the Firm
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300

SILVERMANACAMPORA LLP
Attorneys for Kenneth P. Silverman, Esq.,
The Chapter 7 Trustee
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300
Jay S. Hellman, Esq.
David J. Mahoney, Esq.

Hearing Date: August 13, 2012
2:00 p.m.

Objections Due: August 6, 2012
5:00 p.m.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

AGAPE WORLD, INC.,
AGAPE MERCHANT ADVANCE LLC,
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Debtors.

Chapter 7
Case No.: 09-70660 (DTE)
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KENNETH P. SILVERMAN, ESQ., as
Chapter 7 Trustee of Agape World, Inc., *et al.*,

Plaintiff,

Adv. Pro. No.: 10-08261 (DTE)

-against-

MILLENNIO ENTERPRISES INC.,

Defendant.

-----X
KENNETH P. SILVERMAN, ESQ., as
Chapter 7 Trustee of Agape World, Inc., *et al.*,

Plaintiff,

Adv. Pro. No.: 11-09073 (DTE)

-against-

MILLENNIO ENTERPRISES INC.,

Defendant.

-----X
**TRUSTEE'S SUPPLEMENTAL DECLARATION IN FURTHER SUPPORT
OF APPLICATION UNDER BANKRUPTCY RULE 9019(a) SEEKING THE
ENTRY OF AN ORDER APPROVING A STIPULATION OF
SETTLEMENT BETWEEN THE TRUSTEE AND MILLENNIO ENTERPRISES INC.**

Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") of the substantively consolidated estate of Agape World, Inc., *et al.*, by his attorneys SilvermanAcampora LLP, respectfully submits this supplemental declaration (the "Supplemental Declaration")¹ under 11 U.S.C. §105 and Federal Rule of Bankruptcy Procedure 9019 to correct a typographical error in the Trustee's motion papers executed on May 2, 2012.² A copy of the Trustee's initial motion papers is annexed hereto as **Exhibit 2**.

Reason for Supplemental Application

1. In paragraph 10 of the motion papers dated May 2, 2012, the First Adversary Proceeding was erroneously identified as Adv. Pro. No. 10-08939. In fact, the First Adversary Proceeding was commenced on June 11, 2010 by filing a summons and complaint under Adv. Pro. No. 10-08261.

Notice

2. The Trustee has served the Notice of Presentment, and Supplemental Declaration with Exhibit upon: (i) the Office of the United States Trustee; (ii) Nicholas Cosmo, the former principal of the Debtors; (iii) Defendant; (iv) Defendant's counsel; (v) the appropriate taxing authorities; and (vi) pursuant to the Court's July 8, 2009 Order Establishing Noticing Procedures, all parties having filed a Notice of Appearance in this case, and copies have been posted on the Trustee's website located at www.agapeworldbankruptcy.com. The Trustee respectfully submits that the Trustee's service complies with the Court's Order Establishing Noticing Procedures entered on July 8, 2009, and is otherwise sufficient.

3. Prior application for the relief requested herein was made to this Court via a motion on presentment dated May 2, 2012 and filed on May 9, 2012.

¹ Any capitalized terms not defined herein have the same meaning as defined in the Trustee's motion papers dated May 2, 2012.

² Docket Entry No. 16 for Adversary Proceeding Number 10-082261 and Docket Entry No. 4 for Adversary Proceeding Number 11-09073.

WHEREFORE, the Trustee respectfully requests that this Court grant the Application and this Supplemental Application authorizing and approving the Stipulation and grant such other further and different relief as this

Court deems just and proper.

Dated: Jericho, New York
July 12, 2012

SILVERMANACAMPORA LLP
Attorneys for Kenneth P. Silverman, Esq.,
the chapter 7 trustee

By: s/ David J. Mahoney
Jay S. Hellman
David J. Mahoney
Members of the Firm
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

AGAPE WORLD, INC.,
AGAPE MERCHANT ADVANCE LLC,
AGAPE COMMUNITY LLC, AGAPE
CONSTRUCTION MANAGEMENT LLC,
AGAPE WORLD BRIDGES LLC, AND
114 PARKWAY DRIVE SOUTH LLC,

Debtors.

Chapter 7
Case No.: 09-70660 (DTE)
Substantively Consolidated

-----X
KENNETH P. SILVERMAN, ESQ., as
Chapter 7 Trustee of Agape World, Inc., *et al.*,

Plaintiff,

Adv. Pro. No.: 10-08261 (DTE)

-against-

MILLENNIO ENTERPRISES INC.,

Defendant.

-----X
KENNETH P. SILVERMAN, ESQ., as
Chapter 7 Trustee of Agape World, Inc., *et al.*,

Plaintiff,

Adv. Pro. No.: 11-09073 (DTE)

-against-

MILLENNIO ENTERPRISES INC.,

Defendant.

-----X
ORDER UNDER BANKRUPTCY RULE 9019(a)
APPROVING A STIPULATION OF SETTLEMENT
BETWEEN THE TRUSTEE AND MILLENNIO ENTERPRISES INC.

Upon the Amended Notice of Presentment (the "Amended Notice"), dated July 12, 2012, and related supplemental application (collectively, the "Supplemental Application") of Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") of the substantively consolidated estate of Agape World, Inc., *et al.*, by his counsel, SilvermanAcampora LLP, seeking the entry of an Order approving the Stipulation of Settlement (the "Stipulation") between the Trustee and Millennio Enterprises Inc. (the "Defendant"); and upon the Affidavit of Service filed with the

Court; and no objections to the Supplemental Application or the proposed Order having been filed; and the Court having found that the settlement of the Trustee's claims pursuant to 11 U.S.C. §§542, 544, 547, 548, 550 and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law against Defendant to be fair, reasonable and in the best interest of the Debtors' estate; and sufficient cause having been shown therefor; and after due deliberation and consideration having been had; and it appearing that sufficient notice of the Supplemental Application and proposed Order has been given; and it appearing that good and sufficient cause exists for granting the Supplemental Application and proposed Order; and no additional notice being necessary or required:

NOW, THEREFORE, upon the Amended Notice and Supplemental Application of the Trustee and pursuant to Federal Rule of Bankruptcy Procedure 9019(a) and other applicable law, it is hereby

ORDERED, that service of the Amended Notice and Supplemental Application and proposed Order, having been provided to: (i) the Office of the United States Trustee; (ii) Nicholas Cosmo, former principal of the Debtors, (iii) criminal counsel to Nicholas Cosmo, (iv) Defendant; (v) Defendant's counsel; (vi) the appropriate taxing authorities, and (vii) all parties having filed a Notice of Appearance in this case, and copies have been posted on the Trustee's website located at www.agapeworldbankruptcy.com complies with this Court's Order Establishing Noticing Procedures entered on July 8, 2009 and is otherwise sufficient; and it is further

ORDERED, that the Supplemental Application is granted; and it is further

ORDERED, that the settlement of the settlement of the Trustee's Claims against Defendant as memorialized in the Stipulation is approved; and it is further

ORDERED, that the Trustee be, and hereby is authorized and directed to take such steps, execute such documents and expend such funds as may be reasonably necessary to effectuate and implement the terms and conditions of this Order.

SO ORDERED:

EXHIBIT 2

SILVERMANACAMPORA LLP
Counsel to Kenneth P. Silverman, Esq.,
Chapter 7 Trustee
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300
Jay S. Hellman, Esq.
David J. Mahoney, Esq.

Presentment Date: May 29, 2012
Time: 10:00 a.m.

Objections Due: May 22, 2012
Time: 5:00 p.m.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re:

Chapter 7
Case No.: 09-70660 (DTE)
Substantively Consolidated

AGAPE WORLD, INC.,
AGAPE MERCHANT ADVANCE LLC,
AGAPE COMMUNITY LLC, AGAPE
CONSTRUCTION MANAGEMENT LLC,
AGAPE WORLD BRIDGES LLC, AND
114 PARKWAY DRIVE SOUTH LLC,

Debtors.

KENNETH P. SILVERMAN, ESQ., as
Chapter 7 Trustee of Agape World, Inc., *et al.*,

Plaintiff,

Adv. Pro. No.: 10-08261 (DTE)

-against-

MILLENNIO ENTERPRISES INC.,

Defendant.

KENNETH P. SILVERMAN, ESQ., as
Chapter 7 Trustee of Agape World, Inc., *et al.*,

Plaintiff,

Adv. Pro. No.: 11-09073 (DTE)

-against-

MILLENNIO ENTERPRISES INC.,

Defendant.

**NOTICE OF PRESENTMENT
OF PROPOSED ORDER UNDER
BANKRUPTCY RULE 9019(a) APPROVING A STIPULATION OF
SETTLEMENT BETWEEN THE TRUSTEE AND MILLENNIO ENTERPRISES INC.**

PLEASE TAKE NOTICE, that upon the application (the "Application") of Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") for the substantively consolidated estate of Agape World, Inc., *et al.*, by his counsel, SilvermanAcampora LLP, the Trustee will present a proposed order before the Honorable Dorothy T. Eisenberg, United States Bankruptcy Court for the Eastern District of New York, located at Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, New York 11722 on **May 29, 2012 at 10:00 a.m.**, seeking approval of the Stipulation of Settlement between the Trustee and Millennio Enterprises Inc. A copy of the proposed Order is annexed hereto.

PLEASE TAKE FURTHER NOTICE, that objections, if any, to the relief requested in the Application or the proposed Order must be (i) made in writing; (ii) electronically filed with the Bankruptcy Court; (iii) delivered to Chambers of the Honorable Dorothy T. Eisenberg, United States Bankruptcy Judge, United States Bankruptcy Court, Eastern District of New York, Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, New York 11722; (iv) mailed to SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753, Attn: David J. Mahoney, Esq.; and (v) mailed to the Office of the United States Trustee, 560 Federal Plaza, Central Islip, New York 11722, no later than **May 22, 2012**.

PLEASE TAKE FURTHER NOTICE, that if objections to the Application are filed and served in compliance with the above-paragraph, the Court will hold a hearing on the Application on May 31, 2012 at 10:00 a.m.

Dated: Jericho, New York
May 2, 2012

SILVERMANACAMPORA LLP
Counsel to Kenneth P. Silverman, Esq., the
Chapter 7 Trustee

By: s/ David J. Mahoney
Jay S. Hellman
David J. Mahoney
Members of the Firm
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300

SILVERMANACAMPORA LLP
Counsel to Kenneth P. Silverman, Esq.,
Chapter 7 Trustee
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300
Jay S. Hellman, Esq.
David J. Mahoney, Esq.

Presentment Date: May 29, 2012
Time: 10:00 a.m.

Objections Due: May 22, 2012
Time: 5:00 p.m.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re:

Chapter 7
Case No.: 09-70660 (DTE)
Substantively Consolidated

AGAPE WORLD, INC.,
AGAPE MERCHANT ADVANCE LLC,
AGAPE COMMUNITY LLC, AGAPE
CONSTRUCTION MANAGEMENT LLC,
AGAPE WORLD BRIDGES LLC, AND
114 PARKWAY DRIVE SOUTH LLC,

Debtors.

KENNETH P. SILVERMAN, ESQ., as
Chapter 7 Trustee of Agape World, Inc., *et al.*,

Plaintiff,

Adv. Pro. No.: 10-08261 (DTE)

-against-

MILLENNIO ENTERPRISES INC.,

Defendant.

KENNETH P. SILVERMAN, ESQ., as
Chapter 7 Trustee of Agape World, Inc., *et al.*,

Plaintiff,

Adv. Pro. No.: 11-09073 (DTE)

-against-

MILLENNIO ENTERPRISES INC.,

Defendant.

**TRUSTEE'S APPLICATION UNDER
BANKRUPTCY RULE 9019(a) SEEKING THE ENTRY
OF AN ORDER APPROVING A STIPULATION OF SETTLEMENT
BETWEEN THE TRUSTEE AND MILLENNIO ENTERPRISES INC.**

Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") of the substantively consolidated estate of Agape World, Inc., *et al.*, by his attorneys SilvermanAcampora LLP, respectfully submits this application (the "Application") under 11 U.S.C. §105 and Federal Rule of Bankruptcy Procedure 9019 for entry of an Order (annexed hereto as **Exhibit A**) approving the proposed settlement of the Trustee's claims under 11 U.S.C. §§547, 548, 550 and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law against Millennio Enterprises Inc. as memorialized in the Stipulation of Settlement between the Trustee and Millennio Enterprises Inc. (the "Stipulation"), which has been annexed hereto as **Exhibit B**. All parties are encouraged to review the annexed Stipulation in its entirety for the specific terms of the proposed settlement.

Background

1. On February 5, 2009 (the "Petition Date"), an involuntary chapter 7 petition was filed by four petitioning creditors ("the Petitioning Creditors") pursuant to 11 U.S.C. §303(b), against Agape World, Inc. ("AWI"), in the United States Bankruptcy Court for the Eastern District of New York.

2. On February 9, 2008, the Petitioning Creditors filed a motion to appoint an interim chapter 7 trustee under 11 U.S.C. §303(g).

3. On February 12, 2009, the Court granted the Petitioning Creditors' motion and entered an order directing the United States Trustee's Office to immediately appoint an interim chapter 7 trustee in the AWI case.

4. On February 12, 2009, Kenneth P. Silverman, Esq., was appointed the interim trustee in the AWI case, and has since duly qualified and is now the permanent Trustee in the Debtors' substantively consolidated case.

5. On March 4, 2009, the Court issued an Order for relief in the AWI chapter 7 case.

6. On April 14, 2009, the Court issued an Order substantively consolidating AWI, Agape Merchant Advance LLC, Agape Community LLC, Agape Construction Management,

LLC, Agape World Bridges LLC, and 114 Parkway Drive South LLC (collectively, "Agape" or the "Debtors").

7. Thereafter, pursuant to an Order of this Court dated April 21, 2009 (Dkt. No. 106), the Trustee retained Navigant Consulting Inc. ("Navigant") to, among other things, conduct a forensic analysis of Agape's books and records.

8. Based upon Navigant's analysis, the Trustee determined that Millennio Enterprises Inc. ("Defendant") received net transfers from Agape in a total amount of One Hundred Forty-Two Thousand Four Hundred Sixty-Seven and 00/100 (\$142,467.00) Dollars (the "Net Transfers").

9. Additionally, based upon Navigant's analysis, the Trustee determined that Defendant received transfers from Agape in the ninety (90) days prior to the Filing Date in a total amount of Forty-Three Thousand Three Hundred Twenty-Five and 00/100 (\$43,325.00) Dollars (the "Preferential Transfers").

10. On June 11, 2010, the Trustee commenced an adversary proceeding against the Defendant (the "First Adversary Proceeding") by the filing and service of a summons and complaint under Adv. Pro. No. 10-08939 seeking to, *inter alia*, avoid the Net Transfers pursuant to 11 U.S.C. §§547, 548, 550 and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law and to recover the Transfers from Defendant pursuant to 11 U.S.C. §550(a) (the "First Claims").

11. Additionally, the Trustee previously commenced an adversary proceeding against Brandino Corp. ("Brandino") in the Bankruptcy Court (the "Brandino Adversary Proceeding") seeking to set aside fraudulent transfers from Agape to Brandino (the "Brandino Transfers") under 11 U.S.C. §§105(a), 544, 547, 548, 550 and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law.

12. A confession of judgment avoiding the Brandino Transfers was executed by Diane Kaylor, on behalf of Brandino, and entered by the Bankruptcy Court Clerk on May 20,

2010 in the amount of Four Million Seven Hundred Fifty Thousand and 00/100 Dollars (\$4,750,000.00) (the "Judgment").

13. Subsequent to the Brandino Transfers, Brandino made transfers to Defendant in an amount to be determined at trial, but in no event less than Seventy-Four Thousand Six Hundred Fifty-Six and 00/100 Dollars (\$74,656.00) (the "Subsequent Transfers" and together with the Net Transfers and the Preferential Transfers, collectively, the "Transfers").

14. On May 20, 2011, the Trustee commenced a second adversary proceeding against Defendant (the "Second Adversary Proceeding" and together with the First Adversary Proceeding, collectively, the "Adversary Proceedings"), by the filing and service of a summons and complaint under Adv. Pro. No. 11-09073 seeking to, *inter alia*, avoid the Millennio Subsequent Transfers pursuant to 11 U.S.C. §§541, 542, 544 and 550 and to recover the Millennio Subsequent Transfers from Defendant pursuant to 11 U.S.C. §550(a)(2) to partially satisfy the Judgment (the "Second Claims" and together with the First Claims, collectively, the "Trustee's Claims").

15. The Trustee, and Defendant, through its counsel, engaged in settlement discussions in an effort to consensually resolve the Adversary Proceedings and Defendant and produced documentation demonstrating triable issues of fact that it deposited \$130,000.00 with Agape and received \$142,467.00 in disbursements from Agape, thereby reducing the Net Transfers from Agape to the total amount of \$12,467.00.

16. Additionally, Defendant produced proof that it is currently out of business and presented viable 11 U.S.C. §550(b) defenses to the Second Adversary Proceeding. In order to avoid the costs, expenses and uncertainty of continued litigation, the parties have now agreed to resolve the Trustee's Claims upon the terms and conditions contained in the Stipulation.

17. For all of the reasons set forth herein, the Trustee submits that accepting Defendant's offer to remit \$20,000.00 (the "Settlement Sum") in full and final settlement of the

Trustee's Claims is a reasonable exercise of the Trustee's business judgment and is in the best interests of the Debtors' estate.

Settlement

18. The Trustee has determined that settling this matter for the Settlement Sum is the most economical and efficient way to realize a meaningful and beneficial recovery for the benefit of creditors without the need to incur legal fees and risks inherent with the prosecution of the Trustee's Claims and any resulting judgment enforcement efforts.

19. Indeed, after consultation with his retained professionals and in the exercise of his business judgment, the Trustee has determined that the payment of the Settlement Sum, outweighs the potential net recovery to the estate if the Trustee elected to prosecute the Trustee's Claims through trial and enforce a resulting judgment against the Defendant.

20. In light of the foregoing, and mindful of the costs and risks of litigating the Trustee's Claims, the Trustee has agreed to accept the Settlement Sum.

Basis for Relief Requested

21. Federal Rule of Bankruptcy Procedure 9019(a), which governs the approval of compromises and settlement, provides:

(a) Compromise. On motion by the trustee and after notice and hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

22. In approving a compromise and settlement, the Bankruptcy Court is required to make an "informed and independent judgment" as to whether the compromise and settlement is fair and equitable based on an:

[e]ducated estimate of the complexity, expense and likely duration of [any] litigation, the possible difficulties of collecting on any judgment which might be obtained, and all other factors relevant to a full and fair assessment of the wisdom of the proposed compromise. Basic to this process, in every instance, of course, is the need to compare the terms of the compromise with the likely rewards of litigation.

Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson, 390 U.S. 414, 424-425, *reh'g denied*, 391 U.S. 909 (1968). See *American Can Co. v. Herpel (In re Jackson Brewing Co.)*, 624 F.2d 605, 607 (5th Cir. 1980); *Chopin Assoc. v. Smith (In re Holywell Corp.)*, 93 B.R. 291, 294 (Bankr.S.D.Fla. 1988); *In re Arrow Air, Inc.*, 85 B.R. 886, 891 (Bankr. S.D. Fla. 1988); *In re Bell & Beckwith*, 77 B.R. 628, 611 (Bankr.N.D. Ohio), *aff'd*, 87 B.R. 472 (N.D. Ohio 1987); *Cf. Magill v. Springfield Marine Bank (In re Heissinger Resources Ltd.)*, 67 B.R. 378, 383 (C.D. Ill. 1986) ("the law favors compromise").

23. In making its determination, the Court should consider whether the proposed compromise is in the "best interest of the estate". *Depo v. Chase Lincoln First Bank, N.A. (In re Depo)*, 77 B.R. 381, 383 (N.D.N.Y. 1987), *aff'd*, 863 F.2d 45 (2d Cir. 1988). As stated in *Arrow Air*, the "approval of [a] proposed compromise and settlement is a matter of this Court's sound discretion." *Arrow Air*, 85 B.R. at 891. In passing upon a proposed settlement, "the bankruptcy court does not substitute its judgment for that of the Trustee [or debtor in possession]". *Depo*, 77 B.R. at 384 (citations omitted). The bankruptcy court is not required "to decide the numerous questions of law and fact raised by [objectors].... [R]ather [the Court should] canvass the issues and see whether the settlement falls below the lowest point in the range of reasonableness." *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir.), *cert denied*, 464 U.S. 822 (1983) (quoting *Newman v. Stein*, 464 F.2d 689, 693 (2d Cir.), *cert denied*, 409 U.S. 1039 (1972)). See *Holywell* 93 B.R. at 294. ("In order to exercise this discretion properly, the Court must consider all the relevant facts and evaluate whether the compromise suggested falls below the 'lowest point in the range of reasonableness'" (quoting *In re Teltronics Services, Inc.*, 762 F.2d. 185, 189 (2d Cir. 1985)). In passing upon the reasonableness of a proposed compromise, the Court "may give weight to the opinions of the Trustee [or debtor in possession], the parties and their counsel." *Bell & Beckwith*, 77 B.R. at 512.

24. The factors to be considered by the Court in determining whether to approve a compromise or settlement include (a) probability of success in the litigation, with due

consideration for the uncertainty in fact and law, (b) the complexity and likely duration of the litigation and any attendant expense, inconvenience and delay, and (c) all other factors bearing on the wisdom of the compromise. *Arrow Air*, 85 B.R. at 891 (citing *TMT Trailer Ferry*, 390 U.S. at 424-25). See *Jackson Brewing Co.*, 624 F.2d at 507; *Holywell Corp.*, 93 B.R. at 294-95 (citations omitted).

25. Here, Defendant demonstrated triable issues of fact that it deposited \$130,000.00 with Agape and received \$142,467.00 in disbursements from Agape, thereby reducing the Net Transfers from Agape to the total amount of \$12,467.00. Additionally, Defendant produced proof that it is currently out of business which the Trustee recognizes could prevent enforcement of any potential judgment. Moreover, Defendant presented viable 11 U.S.C. §550(b) defenses to the Second Adversary Proceeding. Nevertheless, Defendant offered to voluntarily return the Settlement Sum. The Trustee submits that considering the costs and uncertainties associated with trial and judgment enforcement, and the amount of the Trustee's demand, it is unlikely that further litigation would result in a "net benefit" to the Debtors' estate in excess of the Settlement Sum. In the sound business judgment of the Trustee, the proposed settlement is both appropriate and warranted. The Trustee believes that the Settlement is fair and equitable and in the best interest of the estate.

Notice

26. The Trustee has served the Notice of Presentment, proposed Order, and Motion in support with Exhibit upon: (i) the Office of the United States Trustee; (ii) Nicholas Cosmo, the former principal of the Debtors; (iii) criminal counsel to Nicholas Cosmo; (iv) Defendant; (v) Defendant's counsel; (vi) the appropriate taxing authorities; and (vii) pursuant to the Court's July 8, 2009 Order Establishing Noticing Procedures, all parties having filed a Notice of Appearance in this case, and copies have been posted on the Trustee's website located at www.agapeworldbankruptcy.com. The Trustee respectfully submits that the Trustee's service

complies with the Court's Order Establishing Noticing Procedures entered on July 8, 2009, and is otherwise sufficient.

27. No previous application for the relief requested herein has been made to this or any other Court.

WHEREFORE, the Trustee respectfully requests that this Court grant this Application authorizing and approving the Stipulation and grant such other further and different relief as this Court deems just and proper.

Dated: Jericho, New York
May 2, 2012

SILVERMANACAMPORA LLP
Attorneys for Kenneth P. Silverman, Esq.,
the chapter 7 trustee

By: s/ David J. Mahoney
Jay S. Hellman
David J. Mahoney
Members of the Firm
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

AGAPE WORLD, INC.,
AGAPE MERCHANT ADVANCE LLC,
AGAPE COMMUNITY LLC, AGAPE
CONSTRUCTION MANAGEMENT LLC,
AGAPE WORLD BRIDGES LLC, AND
114 PARKWAY DRIVE SOUTH LLC,

Chapter 7
Case No.: 09-70660 (DTE)
Substantively Consolidated

Debtors.

-----X
KENNETH P. SILVERMAN, ESQ., as
Chapter 7 Trustee of Agape World, Inc., *et al.*,

Plaintiff,

Adv. Pro. No.: 10-08261 (DTE)

-against-

MILLENNIO ENTERPRISES INC.,

Defendant.

-----X
KENNETH P. SILVERMAN, ESQ., as
Chapter 7 Trustee of Agape World, Inc., *et al.*,

Plaintiff,

Adv. Pro. No.: 11-09073 (DTE)

-against-

MILLENNIO ENTERPRISES INC.,

Defendant.

-----X

**ORDER UNDER BANKRUPTCY RULE 9019(a)
APPROVING A STIPULATION OF SETTLEMENT
BETWEEN THE TRUSTEE AND MILLENNIO ENTERPRISES INC.**

Upon the Notice of Presentment (the "Notice"), dated May 2, 2012, and related application (collectively, the "Application") of Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") of the substantively consolidated estate of Agape World, Inc., *et al.*, by his counsel, SilvermanAcampora LLP, seeking the entry of an Order approving the Stipulation of Settlement (the "Stipulation") between the Trustee and Millennio Enterprises Inc. (the "Defendant"); and upon the Affidavit of Service filed with the Court; and no objections to the

Application or the proposed Order having been filed; and the Court having found that the settlement of the Trustee's claims pursuant to 11 U.S.C. §§542, 544, 547, 548, 550 and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law against Defendant to be fair, reasonable and in the best interest of the Debtors' estate; and sufficient cause having been shown therefor; and after due deliberation and consideration having been had; and it appearing that sufficient notice of the Application and proposed Order has been given; and it appearing that good and sufficient cause exists for granting the Application and proposed Order; and no additional notice being necessary or required:

NOW, THEREFORE, upon the Notice and Application of the Trustee and pursuant to Federal Rule of Bankruptcy Procedure 9019(a) and other applicable law, it is hereby

ORDERED, that service of the Notice and Application and proposed Order, having been provided to: (i) the Office of the United States Trustee; (ii) Nicholas Cosmo, former principal of the Debtors, (iii) criminal counsel to Nicholas Cosmo, (iv) Defendant; (v) Defendant's counsel; (vi) the appropriate taxing authorities, and (vii) all parties having filed a Notice of Appearance in this case, and copies have been posted on the Trustee's website located at www.agapeworldbankruptcy.com complies with this Court's Order Establishing Noticing Procedures entered on July 8, 2009 and is otherwise sufficient; and it is further

ORDERED, that the Application is granted; and it is further

ORDERED, that the settlement of the settlement of the Trustee's Claims against Defendant as memorialized in the Stipulation is approved; and it is further

ORDERED, that the Trustee be, and hereby is authorized and directed to take such steps, execute such documents and expend such funds as may be reasonably necessary to effectuate and implement the terms and conditions of this Order.

SO ORDERED:

EXHIBIT B

SILVERMANACAMPORA LLP
Attorneys for Kenneth P. Silverman, Esq.,
Chapter 7 Trustee
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300
Jay S. Hellman, Esq.
David J. Mahoney, Esq.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
AT CENTRAL ISLIP

-----X
In re:

Chapter 7
Case No. 09-70660 (DTE)
Substantively Consolidated

AGAPE WORLD, INC.,
AGAPE MERCHANT ADVANCE LLC,
AGAPE COMMUNITY LLC, AGAPE
CONSTRUCTION MANAGEMENT LLC,
AGAPE WORLD BRIDGES LLC, AND
114 PARKWAY DRIVE SOUTH LLC,

Debtors.

-----X
KENNETH P. SILVERMAN, ESQ., as
Chapter 7 Trustee of Agape World, Inc., *et al.*

Plaintiff,

Adv. Pro. No. 10-08261 (DTE)

-against-

MILLENNIO ENTERPRISES INC.,

Defendant.

-----X
KENNETH P. SILVERMAN, ESQ., as
Chapter 7 Trustee of Agape World, Inc., *et al.*,

Plaintiff,

Adv. Pro. No.: 11-09073 (DTE)

-against-

MILLENNIO ENTERPRISES INC.,

Defendant.

-----X

STIPULATION OF SETTLEMENT

WHEREAS, on February 5, 2009 (the "Petition Date"), an involuntary chapter 7 petition was filed by four petitioning creditors (the "Petitioning Creditors") pursuant to 11 U.S.C. §303(b)

against Agape World, Inc. ("Agape") in the United States Bankruptcy Court for the Eastern District of New York (the "Bankruptcy Court"); and

WHEREAS, on February 9, 2009, the Petitioning Creditors filed a motion to appoint an interim chapter 7 trustee under 11 U.S.C. §303(g); and

WHEREAS, on February 12, 2009, this Court granted the Petitioning Creditors' motion and entered an order directing the United States Trustee's Office (the "UST") to immediately appoint an interim chapter 7 trustee in the Agape case; and

WHEREAS, by notice of appointment dated February 12, 2009, the UST appointed Kenneth P. Silverman, Esq. as the interim trustee (the "Trustee") in the Agape case, and has since duly qualified and is now the permanent Trustee in this case; and

WHEREAS, on March 4, 2009, the Court issued an Order for relief in the Agape chapter 7 case; and

WHEREAS, on April 14, 2009, the Court issued an Order for substantive consolidation of Agape, Agape Merchant Advance LLC, Agape Community LLC, Agape Construction Management, LLC, Agape World Bridges LLC, and 114 Parkway Drive South LLC (collectively, with Agape the "Debtors"); and

WHEREAS, on or about June 11, 2010, the Trustee commenced adversary proceeding numbered 10-08261(DTE) (the "Avoidance Action") against defendant Millennio Enterprises, Inc. (the "Defendant") by the filing and service of a summons and complaint (the "First Complaint") seeking, among other things, the avoidance and recovery of certain transfers in the amount of One Hundred Forty-Two Thousand Four Hundred Sixty-Seven (\$142,467.00) Dollars (the "Direct Transfers"), made by Agape to Defendant in connection with the Ponzi scheme perpetrated by, among others, Nicholas Cosmo; and

WHEREAS, on or about May 20, 2011, the Trustee commenced adversary proceeding numbered 11-09073(DTE) (the "550 Action" and collectively with the Avoidance Action, the "Adversary Proceedings") against Defendant by the filing and service of a summons and

complaint (the "Second Complaint" and collectively with the First Complaint, the "Complaints") seeking to recover certain transfers in the amount of Seventy-Four Thousand Six Hundred Fifty-Six (\$74,656.00) Dollars (the "Brandino Transfers"), made by Brandino Corp., to Defendant, pursuant to 11 U.S.C. §550(a)(2) in partial satisfaction of the judgment obtained by the Trustee against Brandino Corp.,

WHEREAS, the Trustee and Defendant have, through their respective counsel, engaged in settlement discussions seeking a global resolution of the Adversary Proceedings in an effort to avoid the costs, expenses, and uncertainty of continued litigation, and the parties have now agreed to resolve the claims asserted in the First Complaint and the Second Complaint upon the terms and conditions contained in this Stipulation of Settlement (the "Stipulation");

NOW, THEREFORE, it is hereby stipulated and agreed by and between the parties hereto, that the Adversary Proceedings are resolved upon the terms and conditions set forth as follows:

1. This Stipulation (the "Stipulation") is subject to the approval of the United States Bankruptcy Court for the Eastern District of New York (the "Approval Order").

2. Upon execution of this Stipulation, Defendant will remit Twenty Thousand (\$20,000) Dollars (the "Settlement Sum") to "Kenneth P. Silverman, Esq., as Chapter 7 Trustee," by delivering a check to Trustee's counsel at SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York, 11753, Attention: Randy J. Schaefer, Esq.

3. The Settlement Sum shall be held in the escrow account of the Trustee's counsel until the Approval Order becomes final and non-appealable under 28 U.S.C. §158(c)(2) and Bankruptcy Rule 8002.

4. Upon the Approval Order becoming final and non-appealable, the fourteenth day after the date of the entry of the Approval Order, Trustee's counsel will transfer the Settlement Sum of each installment of the Settlement Sum to the Trustee to be deposited into the Debtors'

estate account. If the Bankruptcy Court denies the entry of the Approval Order, Trustee's counsel will return the Settlement Sum to Defendant's counsel without undue delay.

5. If the Court does not enter the Approval Order, this Stipulation will be null and void and none of the terms herein shall be usable as evidence by either party.

6. Upon the entry of the Approval Order, and the Trustee's receipt and clearance of the Settlement Sum, the Trustee and the estate release and forever discharge Defendant, its affiliated entities, agents, representatives, attorneys, assigns and successors-in-interest from any and all claims, claims for relief, demands, costs, expenses, damages, liabilities, and obligations of any nature arising out of or relating to the claims for relief set forth in the First Complaint or the Second Complaint or any transfers made to Defendant by either the Debtors or Brandino Corp. For purposes of clarification, nothing contained herein shall be construed to be a release by the Trustee of any claims that the Trustee may have or subsequently discover under 11 U.S.C. §550(a)(2) and the Trustee is specifically not releasing any claims under 11 U.S.C. §550(a)(2) to recover immediate or mediate transfers that Defendant may have received from any current or future judgment debtor of the Agape estate except Brandino Corp.

7. Upon the entry of the Approval Order, Defendant releases, discharges and waives any and all claims against the Debtor's Estate, the Trustee and the Trustee's agents, attorneys, assigns and successors-in-interest from any and all claims, claims for relief, demands, costs, expenses, damages, liabilities, and obligations of any nature.

8. It is understood and agreed that this Stipulation is entered into to avoid costly and protracted litigation. Neither the execution of this Stipulation, nor the payment of the Settlement Sum shall be construed as an admission on Defendant's part.

Miscellaneous

9. This Stipulation may be executed in one or more counterparts, with each part being deemed a part of the original document, and facsimile or other electronic signatures shall be deemed an original signature.

10. The person executing this Stipulation on behalf of each respective party warrants and represents that she or he is authorized and empowered to execute and deliver this Stipulation on behalf of such party.

11. The Bankruptcy Court shall retain exclusive jurisdiction over the subject matter of this Stipulation, including but not limited to its enforcement and the implementation and interpretation of its terms and conditions.

12. This Stipulation shall be governed by the laws of the State of New York, except with respect to matters as to which federal law is applicable without regard to any conflicts of law principles.

13. This Stipulation may not be altered, modified, or changed unless in writing, signed by the parties or their counsel.

Dated: Jericho, New York
August __, 2011

SILVERMANACAMPORA LLP
Attorneys for Kenneth P. Silverman, Esq.,
The Chapter 7 Trustee

By: s/ David J. Mahoney
David J. Mahoney
Jay S. Hellman
Members of the Firm
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300

Dated: Uniondale, New York
August __, 2011

January 23, 2012

**FORCHELLI, CURTO, DEEGA, SCHWARTZ,
MINEO, COHN & TERRANA LLP**
Attorneys for Defendant

By: s/ Brian J. Hufnagel
Brian J. Hufnagel
The Omni
333 Earle Ovington Boulevard
Suite 1010
Uniondale, New York 11553
(516) 248-1729