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Attorneys for Kenneth P. Silverman, Esq.,
Chapter 7 Trustee
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(516) 479-6300
David J. Mahoney
Brett S. Silverman

Hearing Date: May 19, 2015
Time: 2:00 p.m.

Objections Due: May 12, 2015
Time: 4:00 p.m.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

AGAPE WORLD, INC., *et al.*,

Debtors.
-----X

Chapter 7

Case No.: 09-70660 (AST)

Substantively Consolidated

**NOTICE OF HEARING ON TRUSTEE'S
MOTION SEEKING AN ORDER (I) AUTHORIZING THE
TRUSTEE TO EFFECT A SIXTH INTERIM DISTRIBUTION TO ALL
HOLDERS OF VALIDATED CLAIMS, FROM PROPERTY OF THE ESTATE
ON ACCOUNT WITH THE TRUSTEE; AND (II) GRANTING RELATED RELIEF**

PLEASE TAKE NOTICE, that upon the motion dated April 23, 2015 (the "Motion"), Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") of the above-captioned substantively consolidated bankruptcy estate of Agape World, Inc., *et al.* (collectively, the "Debtors"),¹ by his counsel SilvermanAcampora LLP, will move before the Honorable Alan S. Trust, United States Bankruptcy Judge, United States Bankruptcy Court for the Eastern District of New York, located at 290 Federal Plaza, Central Islip, New York on **May 19, 2015 at 2:00 p.m.** or as soon thereafter as counsel can be heard (the "Hearing") for an order under §§105, 502 and 726 of Title 11, United States Code (the "Bankruptcy Code") and Rule 3009 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") to: (i) authorize the Trustee to effect a sixth interim distribution to all holders of validated general unsecured claims, from property of the estate on account with the Trustee (the "Sixth Distribution"); and (ii) grant related relief. The specific relief requested by the Trustee is more fully described and set forth in the

¹ The substantively consolidated estates are: Agape World, Inc., Agape Merchant Advance LLC, Agape Community LLC, Agape Construction Management, LLC, Agape World Bridges LLC, and 114 Parkway Drive South LLC.

Motion. A copy of the Motion and all Exhibits, including the proposed order, is enclosed with this Notice.

PLEASE TAKE FURTHER NOTICE, that responses, if any, to the relief requested in the Motion must be: (i) made in writing; (ii) electronically filed with the Bankruptcy Court; (iii) delivered to Chambers of the Honorable Alan S. Trust, 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: Brett S. Silverman, Esq., and (v) mailed to the Office of the United States Trustee, 560 Federal Plaza, Central Islip, New York 11722, so as to be received no later than **4:00 p.m. on May 12, 2015**.

PLEASE TAKE FURTHER NOTICE, that the Hearing may be adjourned without further notice other than the announcement of such adjournment in open Court.

PLEASE TAKE FURTHER NOTICE, that you need not appear at the Hearing if you do not object to the relief requested in the Motion.

Dated: Jericho, New York
April 23, 2015

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

By: s/ David J. Mahoney
David J. Mahoney
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Chapter 7
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TRUSTEE'S MOTION SEEKING AN ORDER (I) AUTHORIZING THE TRUSTEE TO EFFECT A SIXTH INTERIM DISTRIBUTION TO ALL HOLDERS OF VALIDATED CLAIMS, FROM PROPERTY OF THE ESTATE ON ACCOUNT WITH THE TRUSTEE; AND (II) GRANTING RELATED RELIEF

To: THE HONORABLE ALAN S. TRUST
UNITED STATES BANKRUPTCY JUDGE:

Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") of the above-captioned substantively consolidated bankruptcy estate of Agape World, Inc., *et al.* (collectively, the "Debtors"),¹ by and through his attorneys, SilvermanAcampora LLP, respectfully submits this motion (the "Motion") seeking the entry of an order under §§105, 502 and 726 of Title 11, United States Code (the "Bankruptcy Code") and Rule 3009 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") to: (i) authorize the Trustee to effect a sixth interim distribution to all holders of validated general unsecured claims, from property of the estate on account with the Trustee (the "Sixth Distribution"); and (ii) grant related relief, and respectfully represents as follows:²

¹ The substantively consolidated estates are: Agape World, Inc., Agape Merchant Advance LLC, Agape Community LLC, Agape Construction Management, LLC, Agape World Bridges LLC, and 114 Parkway Drive South LLC.

² The Court has jurisdiction over the subject matter and the parties to this core proceeding pursuant to 28 U.S.C. §§1334 and 157(a) and (b)(2)(A), (B), and (O), and the Order of Reference of the United States District Court for the Eastern District of New York. Venue of this proceeding in this Court is proper under

PRELIMINARY STATEMENT

1. By this motion, the Trustee seeks, to among other things, to make the Sixth Distribution of \$2,000,000 on a *pro rata* basis to all Validated Claimants (defined below), of which each Validated Claimant (defined below) shall receive a *pro rata* distribution of approximately 1.055%, based on the allowed amount of their respective Validated Claim (defined below). If the Sixth Distribution is approved, based on the value of the Unresolved Claims (defined below), the Trustee will actually be distributing a total of \$1,660,663.99 to the Validated Claimants (the "Actual Sixth Distribution"), and shall transfer \$339,336.01 of the unused Sixth Distribution into the Distribution Reserve Account (defined below) for the benefit of the holders of each Unresolved Claim, to be distributed to such Claimant pursuant to the Catch-Up Distribution Procedures (defined below), if, and when its Claim is validated and allowed in the future.

2. Subsequent to the Actual Sixth Distribution, the Trustee will have made interim distributions to all Validated Claimants in an amount equal to approximately 7.705% of the allowed amount of each Validated Claim.

BACKGROUND

1. Case Background

3. On February 5, 2009 (the "Petition Date"), an involuntary Chapter 7 petition was filed against Agape World, Inc. ("AWI") under Section 303 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Eastern District of New York.

4. On February 12, 2009, the Court granted the motion of petitioning creditors and directed the United States Trustee to appoint an interim trustee and, by Notice of Appointment,

28 U.S.C. §1408. The statutory predicates for the relief sought herein are Bankruptcy Code §§105, 502 and 726 and Bankruptcy Rule 3009.

Kenneth P. Silverman, Esq., was appointed the interim Trustee of the AWI estate and has since duly qualified and is now the permanent Trustee in this case.

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

6. On April 12, 2009, the Court entered an Order substantively consolidating Agape Merchant Advance LLC, Agape Community LLC, Agape Construction Management LLC, Agape World Bridges LLC, and 114 Parkway Drive South LLC (together with "AWI", the "Debtors"), in the Debtors' case.

7. By Notice of Commencement dated March 27, 2009, and pursuant to Bankruptcy Rules 2002 and 3003(a)(3), the Bankruptcy Court established June 18, 2009 at 5:00 p.m. as the deadline by which creditors must file proofs of claim in the Debtors' case for claims incurred prior to the Petition Date (the "Bar Date").

8. Since the Bar Date, approximately 4,950 claims (collectively, the "Claims") have been timely filed against the Debtors' estate, which have an aggregate claimed amount of \$379,416,347.80.³

2. Past Interim Distributions

9. On December 1, 2009, the Court entered an Order (the "First Interim Distribution Order") which, among other relief, (a) authorized a distribution of \$2,400,000.00 (the "First Distribution"), a portion of which was distributed to the holders (collectively, the "Validated Claimants") of validated and allowed general unsecured Claims against the Debtors' estate (collectively, the "Validated Claims"), which represented approximately 0.78% of the allowed amount of each Validated Claim, and (b) directed the Trustee to reserve, in a segregated bank account (the "Distribution Reserve Account"), for the benefit of the holders (collectively, the "Unresolved Claimants") of all unresolved claims (collectively, the "Unresolved Claim"), such

³ Approximately 217 Claims were filed after the Bar Date (collectively, the "Late Filed Claims") in the aggregate face amount of \$7,805,465.60. For purposes of calculating the *pro rata* percentage for the Sixth Distribution, the Trustee has not included the value of the Late Filed Claims.

Claimant's pro rata share of the First Distribution, which shall be distributed to such Claimant upon further Court order, as such Unresolved Claim became validated and allowed against the Debtors' estate.

10. On August 3, 2010, the Court entered an Order (the "Second Interim Distribution Order"), which, among other relief, (a) authorized the Trustee to effect a second interim distribution of \$1,000,000.00 (the "Second Distribution"), a portion of which was distributed to the Validated Claimants, which amount represented approximately 0.35% of each Validated Claim, and (b) directed the Trustee to reserve, in the Distribution Reserve Account, for the benefit of the Unresolved Claimants, such Claimant's *pro rata* of the Second Distribution, which shall be distributed to such Claimant upon further Court order, as such Unresolved Claim became validated and allowed against the Debtors' estate.

11. On November 15, 2013, the Court entered an Order (the "Third Interim Distribution Order"), which, among other relief, (a) authorized a distribution of \$7,000,000.00 (the "Third Distribution"), a portion of which was distributed to the Validated Claimants, which represented approximately 2.64% of each Validated Claim, (b) directed the Trustee to reserve, in the Distribution Reserve Account, for the benefit of the Unresolved Claimants, such Claimant's *pro rata* of the Third Distribution, which shall be distributed to such Claimant in accordance with the Catch-Up Distribution Procedures (defined below), (c) approved Catch-Up Distributions from the Distribution Reserve Account to newly validated claimants their *pro rata* shares of the First and Second Distributions, on a rolling basis, and (d) approved certain procedures to allow the Trustee, upon 15 days notice, to continue to make distributions from the Distribution Reserve Account to newly validated claimants on account of their *pro rata* share of the Interim Distributions without further Court order (the "Catch-Up Distribution Procedures").

12. On July 21, 2014, the Court entered an Order (the "Fourth Distribution Order"), which, among other relief, (a) authorized the Trustee to make a fourth interim distribution of \$2,500,000.00 on a pro rata basis to the Validated Claimants (the "Fourth Distribution"), (b)

directed the Trustee to reserve, in the Distribution Reserve Account, for the benefit of the Unresolved Claimants, such Claimant's *pro rata* of the Fourth Distribution, which shall be distributed to such Claimant in accordance with the Catch-Up Distribution Procedures, and (c) to effect the transfer of approximately \$2,570,437.17 contained in the Distribution Reserve Account back in to the operating account for future distribution to Validated Claimants and administration expenses.

13. On November 5, 2014, the Court entered an Order (the "Fifth Distribution Order" and, together with the First Distribution Order, the Second Distribution Order, the Third Distribution Order, and the Fourth Distribution Order, the "Distribution Orders"), which, among other relief, (a) authorized the Trustee to make a fifth interim distribution of \$2,000,000.00 on a *pro rata* basis to the Validated Claimants (the "Fifth Distribution"), and (b) directed the Trustee to reserve, in the Distribution Reserve Account, for the benefit of the Unresolved Claimants, such Claimant's *pro rata* of the Fifth Distribution, which shall be distributed to such Claimant in accordance with the Catch-Up Distribution Procedures.

14. As of the date of this Motion, pursuant to the Distribution Orders, other Orders of the Court and the catch-up distributions, the Trustee has distributed a total amount of \$13,075,695.98 to the Validated Claimants, which amount represents 6.65% of each Validated Claim.⁴ As of the date of this Motion, the Distribution Reserve Account has a balance of \$1,825,589.11 (the "Reserve Balance").

3. Claims and Omnibus Objections

15. To date, there remain approximately 250 timely filed Unresolved Claims, which are currently being analyzed and reconciled by the Trustee and his professionals.

⁴ The aggregate allowed amount of the claims held by the Validated Claimants is \$157,336,379.20.

16. Approximately 150 of the Unresolved Claims were filed by (a) defendants of pending adversary proceedings,⁵ and (b) judgment debtors,⁶ and therefore, remain subject to potential disallowance under Bankruptcy Code §502(d).⁷

17. Approximately 57 of the Unresolved Claims are the subject of the Trustee's various omnibus objections served on April 17, 2015.

REQUESTED RELIEF

18. By this Motion, the Trustee seeks an order of the Court, pursuant to Bankruptcy Code §§105 and 726 and Bankruptcy Rule 3009, to: (i) authorize the Sixth Distribution to all Validated Claimants; and (ii) grant related relief.

19. Based on the amount of money on hand in both the general operating account and the Distribution Reserve Account, the Trustee has the necessary funds to make the distributions requested in this Motion, as well as, reserve funds necessary for administration of the estate and future distributions to the Validated Claimants.

The Sixth Interim Distribution

20. The Trustee seeks to make the Sixth Distribution of \$2,000,000 on a *pro rata* basis to all Validated Claimants, of which each Validated Claimant shall receive a *pro rata* distribution of approximately 1.055%, based on the allowed amount of their respective Validated Claim. If the Sixth Distribution is approved, based on the value of the Unresolved Claims, the Trustee will distribute the Actual Sixth Distribution of \$1,648,569.25 to the Validated Claimants.

21. The Trustee proposes to transfer \$339,336.01 of the unused Sixth Distribution into the Distribution Reserve Account for the benefit of the holders of each Unresolved Claim, to

⁵ There are 23 claims filed by defendants of pending adversary proceedings with an aggregate original claimed amount of \$5,337,874.46.

⁶ There are 127 claims filed by judgment debtors with an aggregate original claimed amount of \$18,457,070.81.

⁷ It is possible that these litigation Claims may also be waived or reduced and validated as part of potential settlements of adversary proceedings or judgments.

be distributed to such Claimant pursuant to the Catch-Up Distribution Procedures, if, and when its Claim is validated and allowed in the future. Subsequent to the Sixth Distribution, the Reserve Balance will be \$2,164,925.12.

22. Subsequent to the Actual Sixth Distribution, the Trustee will have distributed to the Validated Claimants a total interim amounts equal to approximately 7.705% of the allowed amount of each Validated Claim.

BASIS FOR THE REQUESTED RELIEF

23. The Trustee has determined that, subject to approval of the Court, it is in the estate's best interests to make the proposed Fifth Distribution.

24. Bankruptcy Rule 3009 provides in pertinent part:

In a chapter 7 case, dividends to creditors shall be paid as promptly as practicable. Dividend checks shall be made payable to and mailed to each creditor whose claim has been allowed, unless a power of attorney authorizing another entity to receive dividends has been executed and filed in accordance with Rule 9010. In that event, dividend checks shall be made payable to the creditor and to the other entity and shall be mailed to the other entity.

25. Bankruptcy Code §726(b) provides:

Payment on claims of a kind specified in paragraph (1), (2), (3), (4), (5), (6), (7), (8), (9) or (10) of section 507(a) of this title, or in paragraph (2), (3), (4), or (5) of subsection (a) of this section, shall be made pro rata among claims of the kind specified in each such particular paragraph, except that in a case that has been converted to this chapter under section 1112, 1208, or 1307 of this title, a claim allowed under section 503(b) of this title incurred under this chapter after such conversion has priority over a claim allowed under section 503(b) of this title incurred under any other chapter of this title or under this chapter before such conversion and over any expenses of a custodian superseded under section 543 of this title.

26. This Court has previously approved numerous interim distributions and catch-up distributions to the Validated Claimants.

27. As stated above, the Trustee estimates that, if this Court authorizes the proposed Fifth Distribution, he will (a) disburse approximately \$1,660,663.99 to all Validated Claimants on

account of their *pro rata* share of the Fourth Interim Distribution, and (b) deposit approximately \$339,336.01 into the Distribution Reserve Account for the benefit of any holder of an Unresolved Claim, to the extent such Claim is validated and allowed in the future, which shall be distributed according to the Catch-up Distribution Procedures.

28. As the Court is aware, the Trustee filed approximately 1,600 adversary proceedings seeking to avoid certain alleged fraudulent and preferential transfers made by the Debtors to the various defendants.

29. To date, a significant number of the adversary proceedings have settled or have been dismissed, however, there are still approximately twenty (20) adversary proceedings pending resolution. Although the Trustee is hoping to quickly resolve those matters, he is cognizant of the nature of litigation and the length of time involved in bringing such proceedings to resolution.

30. For the foregoing reasons, the Trustee believes that it is in the best interest of the Debtor's creditors to make the proposed Sixth Distribution, as set forth above.

31. Based on (a) the monies currently in the estate, and (b) the monies in the Distribution Reserve Account, the Trustee is confident that he can make the proposed Sixth Distribution and not unfairly prejudice the rights of any of the holders of the Unresolved Claims, or the Trustee's ability to administer the estate.

32. Except for the Trustee's previous motions seeking authority to make other Interim Distributions, no prior application for the relief sought herein has been made by the Trustee to this or any other Court.

NOTICE

33. The Trustee has served the Notice of this Motion, the Motion and all exhibits hereto, on: (i) the Office of the United States Trustee; (ii) the appropriate taxing authorities; (iii) Nicholas Cosmo, Debtors' former principal; (iv) the Internal Revenue Service and other governmental agencies to the extent required by the Bankruptcy Rules and the Local Rules,

and (v) all parties having filed a Notice of Appearance in this case. Moreover copies of the foregoing documents have been posted on the Trustee's website located at www.agapeworldbankruptcy.com. The Trustee respectfully submits that the Trustee's service complies with this Court's Order Establishing Noticing Procedures entered on July 8, 2009, and is otherwise sufficient.

CONCLUSION

WHEREFORE, the Trustee requests the entry of an order substantially in the form annexed hereto as **Exhibit A**, (a) authorizing the Sixth Distribution as set forth herein, and (b) granting the Trustee such other and further relief as this Court deems just and proper.

Dated: Jericho, New York
April 23, 2015

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

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

EXHIBIT A

This order relates to a hearing held on May 19, 2015.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X

In re:

AGAPE WORLD, INC., *et al.*,

Chapter 7

Case No. 09-70660 (AST)

Debtors.

-----X

ORDER GRANTING TRUSTEE'S MOTION SEEKING AN ORDER (I) AUTHORIZING THE TRUSTEE TO EFFECT A SIXTH INTERIM DISTRIBUTION TO ALL HOLDERS OF VALIDATED CLAIMS, FROM PROPERTY OF THE ESTATE ON ACCOUNT WITH THE TRUSTEE; AND (II) GRANTING RELATED RELIEF

Upon the motion dated April 23, 2015 (the "Motion") of Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") of the substantively consolidated estate of Agape World, Inc., *et al.* (the "Debtor"), by his counsel, SilvermanAcampora LLP, seeking the entry of an order under §§105, 502 and 726 of Title 11, United States Code (the "Bankruptcy Code") and Rule 3009 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") to: (i) authorize the Trustee to effect a sixth interim distribution to all holders of validated general unsecured claims, from property of the estate on account with the Trustee (the "Sixth Distribution"); and (ii) grant related relief; and due notice of the Motion having been given to all parties subject to the Motion; and the Trustee having served the Motion in compliance with this Court's Order Establishing Noticing Procedures entered on July 8, 2009; and upon a hearing held before the Court on May 19, 2015 (the "Hearing"), the transcript of which is incorporated herein by reference; at which time all parties in interest were afforded an opportunity to be heard at the Hearing; and the Trustee having appeared at the Hearing by and through his attorneys; and upon the Affidavit of Service of the Motion on file with the Court; and after due deliberation and consideration of all the facts and circumstances herein; and the relief sought in the Motion being determined to be in the best interests of the Debtors' estate and its creditors, and no further notice being necessary or required; and for good and sufficient cause; it is, therefore, hereby

ORDERED, that service of the Notice, Motion, and proposed Order, having been provided to: (i) the Office of the United States Trustee; (ii) the appropriate taxing authorities; (iii) Nicholas Cosmo, Debtors' former principal; (iv) the Internal Revenue Service and other governmental agencies to the extent required by the Bankruptcy Rules and the Local Rules; and (v) all parties having filed a Notice of Appearance in this case. Moreover, copies of the foregoing documents 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 Motion is granted to the extent set forth herein; and, it is further

ORDERED, that the Trustee is authorized to effect a Sixth Distribution of \$2,000,000 as set forth in the Motion; and, it is further

ORDERED, that the Trustee is authorized and directed to make a distribution of \$1,648,569.25 from property of the estate on account with the Trustee to the Validated Claimants, *pro rata*, based upon the allowed amount of their respective Validated Claims, representing the Actual Sixth Distribution; and, it is further

ORDERED, that the Trustee is authorized and directed to transfer \$339,336.01 into the Distribution Reserve Account for the benefit of the holders of any future validated Unresolved Claims, representing their respective *pro rata* share of the Sixth Distribution; and, it is further

ORDERED, that the Trustee be, and hereby is, authorized and allowed to do such things, expend such funds and execute such documents as may be necessary to implement the terms and conditions of this Order.