

SILVERMANACAMPORA LLP  
Counsel to Kenneth P. Silverman, Esq.,  
The Chapter 7 Trustee  
100 Jericho Quadrangle, Suite 300  
Jericho, New York 11753  
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Anthony C. Acampora, Esq.  
David J. Mahoney, Esq.

Presentment Date: August 18, 2015  
Time: 9:30 a.m.

Objections Due: August 14, 2015  
Time: 5:00 p.m.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
In re:

Chapter 7  
Case No.: 09-70660 (AST)  
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.: 10-08402 (AST)

-against-

MICHAEL KALMAN,

Defendant.  
-----X

**NOTICE OF PRESENTMENT OF AN ORDER UNDER FEDERAL  
RULE OF BANKRUPTCY PROCEDURE 9019(a) (I) RE-OPENING THE  
ADVERSARY PROCEEDING; (II) APPROVING THE STIPULATION OF SETTLEMENT  
PROVIDING FOR THE CONDITIONAL SATISFACTION OF THE TRUSTEE'S JUDGMENT  
AGAINST MICHAEL KALMAN; AND (III) RE-CLOSING THE ADVERSARY PROCEEDING**

**PLEASE TAKE NOTICE**, that upon the annexed motion (the "Motion"), 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 to the Honorable Alan S. Trust, United States Bankruptcy Judge, United States Bankruptcy Court for the Eastern District of New York, located at the Alfonse M. D'Amato Federal Courthouse, 290 Federal Plaza, Courtroom 960, Central Islip, New York 11722 on

**August 18, 2015 at 9:30 a.m.**, or as soon thereafter as counsel can be heard, under Bankruptcy Rule 9019(a) (I) Re-Opening the Adversary Proceeding; (II) Approving the Stipulation Providing for the Conditional Satisfaction of the Trustee's Judgment against Michael Kalman; and (III) Re-Closing the Adversary Proceeding. A copy of the proposed Order is attached to the Motion as **Exhibit A**.

**PLEASE TAKE FURTHER NOTICE**, that objections, if any, to the relief requested in the Motion or the proposed Order must be (i) made in writing; (ii) electronically filed with the Bankruptcy Court; (iii) mailed to Chambers of the Honorable Alan S. Trust, United States Bankruptcy Judge, United States Bankruptcy Court, Eastern District of New York, Alfonse M. D'Amato Federal Courthouse, 290 Federal Plaza, Courtroom 960, 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 14, 2015 at 5:00 p.m.**

**PLEASE BE ADVISED**, that if an objection is timely filed to the relief requested, or if the Court determines that a hearing is appropriate, the Court will schedule a hearing. Notice of such hearing will be provided by the applicant.

**PLEASE BE ADVISED**, that if no objection is received by the Objection Deadline, the order may be signed without a hearing.

Dated: Jericho, New York  
July 16, 2015

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

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

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

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 (AST)  
Substantively Consolidated

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

Plaintiff,

Adv. Pro. No.: 10-08402 (AST)

-against-

MICHAEL KALMAN,

Defendant.  
-----X

**MOTION FOR AN ORDER UNDER FEDERAL RULE OF BANKRUPTCY  
PROCEDURE 9019(a) SEEKING THE ENTRY OF AN ORDER (I) RE-OPENING THE  
ADVERSARY PROCEEDING; (II) APPROVING THE STIPULATION OF SETTLEMENT  
PROVIDING FOR THE CONDITIONAL SATISFACTION OF THE TRUSTEE'S JUDGMENT  
AGAINST MICHAEL KALMAN; AND (III) RE-CLOSING THE ADVERSARY PROCEEDING**

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 motion (the "Motion") under 11 U.S.C. §105 and Federal Rules of Bankruptcy Procedure 9019(a) for entry of an Order (attached as **Exhibit A**) (I) Re-Opening the Adversary Proceeding; (II) Approving the Stipulation Providing for the Conditional Satisfaction of the Trustee's Judgment against Michael Kalman (the "Defendant"), as

memorialized in the Stipulation Providing for the Conditional Satisfaction of the Trustee's Judgment Against Michael Kalman (the "Stipulation"), which is attached as **Exhibit B**; and (III) Re-Closing the Adversary Proceeding. All parties are encouraged to review the Stipulation in its entirety for the specific terms of the 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 (Docket 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 Defendant received certain preferential transfers totaling \$50,475.13 (the "Transfers") from the Debtors.

9. On or about August 27, 2010, the Trustee commenced an adversary proceeding against the Defendant (the "Adversary Proceeding") by the filing and service of a summons and complaint under Adv. Pro. No. 10-08402 seeking, among other things, the return of monies paid by Agape to the Defendant in the amount of \$50,475.13 (the "Transfers").

10. On October 1, 2010, the Defendant filed an answer. Thereafter, the matter was litigated and on May 20, 2013 a hearing on the matter was held.

11. On June 5, 2013, the Court issued a judgment (the "Judgment") against the Defendant.

12. Thereafter, the Trustee commenced judgment enforcement proceedings by, inter alia, serving an information subpoena and restraining notice (collectively, the "Subpoena") on Wells Fargo Bank (the "Bank").

13. Subsequently, the Defendant, through his counsel, contacted Trustee's counsel and engaged in settlement discussions seeking a resolution of the Adversary Proceeding and has furnished counsel for the Trustee with certain certified financial information concerning all his assets and liabilities (collectively, the "Financial Information").

14. Defendant has offered to pay \$9,458.73 (the "Settlement Sum") to the Trustee in full and final settlement of the Judgment.

15. Based upon the Trustee's review of all documentation related to the Net Transfers and his investigation of all attendant factors, including the Financial Information, the Trustee has, in his business judgment, agreed to accept Defendant's voluntary return of the Settlement Sum in full and final satisfaction of the Trustee's Judgment.

16. For all the reasons set forth herein, the Trustee submits that accepting Defendant's offer to remit the Settlement Sum in full and final settlement of the Judgment is a

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

### Settlement

17. The Trustee has determined that settling this matter for the Settlement Sum is the most economical and efficient way to realize a meaningful recovery for the creditor's benefit without incurring additional legal fees and the risks inherent with collecting on the Judgment.

### Basis for Relief Requested

18. Rule 9019(a) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") governs the approval of compromises and settlements, and provides as follows:

On motion by the trustee and after notice and a 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.

FED. R. BANKR. P. 9019(a).

19. In approving the compromise and settlement, the 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 such 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.<sup>1</sup>

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<sup>1</sup> *In re Iridium Operating LLC*, 478 F.3d 452, 462 n.15 (2d Cir. 2007) (quoting *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 *In re Arrow Air, Inc.*, 85 B.R. 886, 891 (Bankr. S.D. Fla. 1988); *In re Bell & Beckwith*, 77 B.R. 606, 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").

20. In making its determination on the "propriety of the settlement", the Court should consider whether the proposed settlement is in the "best interest of the estate."<sup>2</sup> As stated in *Arrow Air*, the "approval of [a] proposed compromise and settlement is a matter of this Court's sound discretion."<sup>3</sup> In passing upon a proposed settlement, "the bankruptcy court does not substitute its judgment for that of the trustee".<sup>4</sup> 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."<sup>5</sup> In passing upon the reasonableness of a proposed compromise, the Court "may give weight to the opinions of the Trustee, the parties and their counsel."

21. The Second Circuit in *re Iridium Operating LLC*<sup>6</sup> outlined the following seven factors (the "Iridium Criteria") to be considered by a court in deciding whether to approve a compromise or settlement:

- i. the balance between the litigation's possibility of success and the settlement's present and future benefits;
- ii. the likelihood of complex and protracted litigation, with its attendant expense, inconvenience, and delay, including the difficulty in collecting on the judgment if the settlement is not approved;
- iii. the paramount interest of the creditors, including the proportion of class members who do not object to or who affirmatively support the settlement;
- iv. whether other parties in interest support the settlement;

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<sup>2</sup> *Handler v. Roth (In re Handler)*, 386 B.R. 411, 420 (Bankr. E.D.N.Y. 2007)(quoting *In re Adelphia Communications Corp.*, 327 B.R. 143, 158 (Bankr. S.D.N.Y. 2005)); *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).

<sup>3</sup> *Arrow Air*, *supra*, 85 B.R. at 891.

<sup>4</sup> *In re Depo*, 77 B.R. at 384 (citations omitted).

<sup>5</sup> *Bell & Beckwith*, 77 B.R. at 612; see also *In re Handler*, 386 B.R. at 421.

<sup>6</sup> 478 F.3d 452, 462 (2d Cir. 2007).

- v. the competency and experience of the counsel who support the proposed settlement;
- vi. the relative benefits to be received by individuals or groups within the class; and
- vii. the extent to which the settlement is the product of arm's length bargaining.<sup>7</sup>

22. The Stipulation is a product of extensive arm's length bargaining and exceeds the lowest range of reasonableness consistent with the applicable law.

23. The Settlement Sum represents a guaranteed recovery of a significant portion of the Net Transfers for which the Trustee believes Defendant is equitably liable in satisfaction of the Judgment.

24. The Parties are represented by competent and experienced counsel.

25. The Trustee does not anticipate that any of the Debtors' creditors will object to Stipulation or the relief requested in this Motion.

26. The Trustee submits that considering the costs and uncertainties associated with enforcing the Judgment against Defendant, it is unlikely that further collection efforts would result in a "net benefit" of the Debtors' estate in excess of the Settlement Sum. In the Trustee's sound business judgment, 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**

27. The Trustee has served the Notice of Motion, proposed Order, and Motion in support (with Exhibits) upon: (i) the Office of the United States Trustee; (ii) Nicholas Cosmo, Debtors' former principal; (iii) Defendant; (iv) Defendant's counsel; (v) the Internal Revenue Service and other governmental agencies to the extent required by the Bankruptcy Rules and the Local Rules; and (vi) 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](http://www.agapeworldbankruptcy.com). The

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<sup>7</sup> See *In re Iridium Operating LLC*, 478 F.3d at 462; See also *In re Handler*, 386 B.R. at 421.



Trustee respectfully submits that the proposed service complies with this Court's Order Establishing Noticing Procedures entered on July 8, 2009 and is otherwise sufficient.

28. 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 Motion approving the Stipulation and grant such other further and different relief as this Court deems just and proper.

Dated: Jericho, New York  
July 16, 2015

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

By: s/ David J. Mahoney  
David J. Mahoney  
Member 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,

Debtors.

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

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

Plaintiff,

Adv. Pro. No.: 10-08402 (AST)

-against-

MICHAEL KALMAN,

Defendant.  
-----X

**ORDER UNDER FEDERAL RULE OF BANKRUPTCY  
PROCEDURE 9019(a) (I) RE-OPENING THE ADVERSARY  
PROCEEDING; (II) APPROVING THE STIPULATION PROVIDING FOR  
THE CONDITIONAL SATISFACTION OF THE TRUSTEE'S JUDGMENT  
AGAINST MICHAEL KALMAN; AND (III) RE-CLOSING THE ADVERSARY PROCEEDING**

Upon the Notice of Motion (the "Notice"), dated July 16, 2015, and related documents (collectively, the "Motion") 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 (I) Re-Opening The Adversary Proceeding; (II) Approving The Stipulation Providing For The Conditional Satisfaction Of The Trustee's Judgment Against Michael Kalman; and (III) Re-Closing The Adversary Proceeding; and upon the Affidavit of Service filed with the Court; and no objections to the Motion or the proposed Order having been filed; and the Court having found that settling the Trustee's claims and judgment arising under 11 U.S.C. §§105, 502, 544, 547, 550, and 551, is reasonable and in the best interest of the Debtors' estate; and sufficient cause having been shown therefor; and

after due deliberation and consideration; and it appearing that sufficient notice of the Motion and proposed Order has been given; and it appearing that good and sufficient cause exists for granting the Motion and proposed Order; and no additional notice being necessary or required:

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

**ORDERED,** that the Motion is granted, and it is further

**ORDERED,** that the Clerk of the Court is directed to re-open this adversary proceeding assigned case number 10-08402 (AST); and it is further

**ORDERED,** that the settlement of the Trustee's Claims against Defendant as memorialized in the Stipulation, a copy of which is attached to the Motion as

Exhibit "B", is approved; and it is further

**ORDERED,** that the Trustee is authorized to take all actions necessary to have the Judgment marked satisfied against Michael Kalman, including, but not limited to, the filing a Satisfaction of Judgment and lifting the restraint on any bank account of Michael Kalman; and it is further

**ORDERED,** that upon entry of the within Order the instant Adversary Proceeding shall be re-closed.

# EXHIBIT B

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 (AST)  
Substantively Consolidated

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

Plaintiff,

Adv. Pro. No.: 10-08402 (AST)

-against-

MICHAEL KALMAN,

Defendant.  
-----X

## **STIPULATION PROVIDING FOR THE CONDITIONAL SATISFACTION OF TRUSTEE'S JUDGMENT AGAINST MICHAEL KALMAN**

I. 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.

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

III. 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.

IV. 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 (the "Trustee") in the substantively consolidated case.

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

VI. 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, the "Debtor").

VII. On or about August 27, 2010, the Trustee commenced an adversary proceeding against the Defendant (the "Adversary Proceeding") by the filing and service of a summons and complaint under Adv. Pro. No. 10-08402 seeking, among other things, the return of monies paid by Agape to the Defendant in the amount of \$50,475.13 (the "Transfers").

VIII. Thereafter, the Trustee commenced judgment enforcement proceedings by, *inter alia*, serving an information subpoena and restraining notice (collectively, the "Subpoena") on Wells Fargo (the "Bank").

IX. The Trustee and the Defendant, through his counsel, engaged in settlement discussions seeking a resolution of the Adversary Proceeding and has furnished counsel for the Trustee with certain certified financial information concerning all his assets and liabilities (collectively, the "Financial Information"). Defendant acknowledges that the Trustee is relying upon the accuracy of the Financial Information and would not enter into this Stipulation in the event the Financial Information was materially inaccurate, and acknowledges the reasonableness of such reliance.

X. In the spirit of compromise and without any admission of liability, Defendant has offered to remit the sum of \$9,458.73 (the "Settlement Sum").

XI. As additional consideration for settling the Trustee's Claims, Defendant agrees to: (i) waive his right to receive a distribution on any scheduled claim potentially listed on Schedule F of the Debtors' petitions; (ii) waive any and all claims against the Debtors' estates, including a

waiver of Claim 2812 in its entirety; (ii) waive their right to any further distribution from the Debtors' estate; (iv) execute the notice of waiver of the Claim 2812 (the "Notice of Waiver") annexed hereto as **Exhibit A**; and (v) authorize the Trustee's counsel to electronically file the Notice of Waiver with the Bankruptcy Court, and deliver the Notice of Waiver to the Trustee's retained claims and noticing agent.

XII. Based upon his review of all documentation related to the Transfers and his investigation of all attendant factors, the Trustee has, in his business judgment, agreed to settle the Judgment upon the following terms and conditions, which the Trustee believes are fair and reasonable, especially in light of the costs and uncertainty associated with enforcing the Judgment.

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and among the parties hereto, that the Judgment be resolved upon the terms and conditions set forth herein as follows:

**Defendant's Obligation to Pay the Settlement Sum**

1. This stipulation (the "Stipulation") is subject to the entry of an order approving the settlement by the United States Bankruptcy Court for the Eastern District of New York (the "Approval Order").

2. Upon the execution of this Stipulation, the Defendant will authorize The Bank to remit a payment in the amount of \$9,458.73 made payable to "Kenneth P. Silverman, Esq., as Chapter 7 Trustee", by delivering the check to Trustee's counsel at SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York, 11753, Attention: Linda Tumino.

3. In the event that the Trustee receives the Settlement Sum, and the Settlement Sum clears, the Trustee will satisfy the Judgment. In reliance upon Defendant's promise to promptly remit the Settlement Sum, the Trustee will withhold from further judgment enforcement efforts until May 15, 2015. In the event that the Trustee does not receive the Settlement Sum

by that date, or the Settlement Sum does not clear, the Trustee shall not satisfy the Judgment, and he shall retain all of his rights and remedies as a judgment creditor under New York law.

4. The Settlement Sum shall be held by the Trustee in a segregated account until the Approval Order becomes final and non-appealable under 28 U.S.C. §158(c)(2) and Bankruptcy Rule 8002.

5. Once the Approval Order becomes final and non-appealable, on the fourteenth day after the date of the entry of the Approval Order, Trustee's counsel shall: (i) transfer all settlement funds being held in the "Earnest Monies" account into the Debtor's estate account; and (ii) prepare and file such documents as necessary to satisfy the Judgment.

6. Once the Approval Order becomes final and non-appealable, and the Trustee deposits the Settlement Sum into the Debtor's estate account, the Trustee and the estate release and forever discharge Defendant, his 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 Trustee's Claims. Defendant further understands that a material misrepresentation in the financial information would void the release provided by the Trustee in this paragraph.

7. Upon the execution of this Stipulation, 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, proofs of claim, claims for relief, demands, costs, expenses, damages, liabilities, and obligations of any nature.

**Miscellaneous**

8. 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.

9. 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.

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

11. This Stipulation shall be deemed to have been drafted by all parties hereto to remove any negative inference against the drafter hereof.

12. 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.

13. 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.

**INTENTIONALLY LEFT BLANK**



14. The Trustee and Defendant are each responsible for their own costs and attorneys' fees incurred in connection with this proceeding.

Dated: Jericho, New York  
April \_\_, 2015

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

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

Dated: Stockton, California  
April 17, 2015

**Law Office of James M. Morris**  
Attorneys for Defendant

By: s/ James M. Morris  
James M. Morris  
3031 W. March Lane, Suite 201  
Stockton, CA 95219  
(209) 474-7872

Dated: Newport Beach, California  
April 17, 2015

**Michael Kalman, Defendant**

By: s/ Michael Kalman  
Michael Kalman