

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

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

**ELEVENTH INTERIM APPLICATION BY THE ACCOUNTANT FOR THE  
TRUSTEE UNDER BANKRUPTCY CODE SECTIONS 330 & 331  
FOR ALLOWANCE OF COMPENSATION, REIMBURSEMENT OF  
EXPENSES AND PARTIAL PAYMENT OF HOLDBACK FEES**

TO THE HONORABLE DOROTHY EISENBERG, BANKRUPTCY JUDGE:

Kenneth Yormark in his capacity as a Director of Navigant Consulting Inc. ("Navigant"), in support of Navigant's Eleventh Interim Application under 11 U.S.C. §§330 and 331 for allowance of compensation, reimbursement of expenses and partial payment of holdback fees respectfully declares the following under penalty of perjury pursuant to 28 U.S.C. §1746:

1. I am a Certified Public Accountant duly licensed to practice in the State of New York, a Certified Fraud Examiner, and a Director of Navigant Consulting, Inc. which maintains an office at 90 Park Avenue, New York, NY 10016.

2. I have been practicing in said profession for over twenty (20) years and am well versed and experienced in the review of the books and records of debtors and firms in forensic accounting examinations and fraud investigations.

3. I am not related to nor have any business association with the Trustee, any attorney, creditor, the debtor, or any other party to the proceedings, except that I have been retained in other matters unrelated to this case as accountant for the Trustee.

4. Navigant is a disinterested person pursuant to 11 USC Section 327(a).

5. Neither I, nor any member of my firm holds or represents any interest adverse to the estate.

6. Navigant is disinterested as that term is defined in 11 USC Section 101(14).

7. Neither I, nor any member of my firm has any claims against the debtor.

8. I have no connection with the United States Trustee or any person employed in the office of the United States Trustee.

9. Navigant was retained as forensic accountants to the Trustee as of March 18, 2009, pursuant to Court Order dated the 21<sup>st</sup> day of April 2009 signed by the Honorable Dorothy Eisenberg, Bankruptcy Judge, and annexed hereto as Exhibit A.

10. Neither I, nor my firm has received any compensation in this matter, except the compensation previously approved by the Court.<sup>1</sup>

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<sup>1</sup> By Order of the Court dated December 3, 2009, for the period March 18, 2009 through and including September 30, 2009, Applicant was awarded fees and expenses of \$534,256.25 and \$672.93, respectively, and this included a 20% holdback of fees equal to \$106,851.25. By Order of the Court dated August 3, 2010, for the period of October 1, 2009 through and including May 31, 2010, Applicant was awarded fees and expenses of \$294,868.75 and \$1,974.55, respectively, and this included a 20% holdback of fees equal to \$58,973.75. By Order of the Court dated November 23, 2010, for the period of June 1, 2010 through and including September 30, 2010, Applicant was awarded fees in the amount of \$470,387.50 (Applicant voluntarily waived its expenses of \$8.25) and this included a 20% holdback equal to \$94,077.50. By Order of the Court dated June 16, 2011, for the period of October 1, 2010 through and including February 28, 2011, Applicant was awarded fees and expenses of \$316,043.75 and \$6.21, respectively, and this included a 20% holdback equal to \$63,208.75. By Order of the Court dated February 29, 2012, for the period of March 1, 2011 through and including October 31, 2011, Applicant was awarded fees and expenses of \$185,418.75 and \$78.11, respectively, and this included a 20% holdback equal to \$37,083.75. By Order of the Court dated July 13, 2012, for the period of December 1, 2011 through and including April 30, 2012, Applicant was awarded fees and expenses of \$94,256.25 and \$24.75, respectively, and this included a 20% holdback equal to \$18,851.25. By Order of the Court dated February 28, 2013, for the period of November 1, 2011 through November 30, 2011, and May 1, 2012 through and including December 31, 2012, Applicant was awarded fees and expenses of \$248,600.00 and \$372.35, respectively, and this included a 20% holdback equal to \$49,720.00. By Order of the Court dated July 11, 2013, for the period of January 1, 2013 through and including April 30, 2013, Applicant was awarded fees and expenses of \$181,500.00 and \$678.75, respectively, and this included a 20% holdback equal to \$36,300.00. By Order of the Court dated November 15, 2013, for the period of May 1, 2013 through and including September 30, 2013, Applicant was awarded fees and expenses of \$85,937.50 and \$304.97, respectively, and this included a 20% holdback equal to \$17,187.50. By Order of the Court dated March 24, 2014, for the period of October 1, 2013 through and including January 31, 2014, Applicant was awarded fees and expenses of \$83,140.75 and \$537.61, respectively, and this included a 20% holdback equal to \$16,628.15. To date, Applicant has been paid fees and

11. I have conferred with Trustee's Counsel and am familiar with this matter and that the following is a summary of the work performed, time required and billing rates used by Navigant in determining the amount of compensation for necessary accounting services rendered for and on behalf of the Trustee:

- a. Performed substantive and analytic procedures on debtor's financial records encompassing thirty-two bank accounts and QuickBooks Accounting System. Examination was concentrated on identifying investor-related deposits and disbursements, commingling of assets, as well as any suspicious, unusual, or unsupported entries and transactions.
- b. Prepared Investor Clawback Analyses, detailing and documenting thousands of transactions relating to defendants who received greater than or equal to \$10,000 net proceeds. Generated separate Clawback Analyses for activity that occurred within 6 years and 2 years of the bankruptcy petition filing date. In addition to regular Clawback Analyses, also assisted counsel in preparing documentation for trials which contained additional QuickBooks screenshot extracts and bank statement support, and testified in bankruptcy court as an expert witness regarding Clawbacks.
- c. Analyzed the claims filed by defendants in hundreds of bankruptcy adversary proceedings. As a result of significant discrepancies within the debtor's books and inconsistent identification systems within bank records, these claims needed to be individually verified and integrated into existing records and examination results.
- d. Examined debtor's forensically preserved electronic server in an attempt to substantiate investor defense claims. Referenced original investor agreements and account rollover forms to corroborate actual deposits and trace investment account histories, including purported interest accruals.

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expenses in the sum of \$2,441,566.60 and \$4,650.23, respectively, and for the total sum of \$2,446,216.83, which includes holdback fees of \$446,039.00. Applicant has not been paid the remaining holdback fees which total the sum of \$52,842.90.

- e. Verified, on a transactional basis, the ultimate origins and destinations of deposits and disbursements to and from the debtor's interrelated entities.
- f. Maintained a comprehensive database integrating the debtor's accounting system with thousands of previously unidentified transactions that have been discovered and traced throughout the life cycle of the investigation.
- g. Of note, during the Eleventh Interim Fee Period, Navigant provided extensive litigation support to Trustee's counsel in connection with the Trustee's preparation of thirty-one (31) trials that were scheduled by the Court to be held during the Eleventh Interim Fee Period or shortly thereafter.

12. In performing the above services, Navigant has recorded the following time spent on this matter for the Eleventh Interim Fee Application period of February 1, 2014 through and including August 31, 2014, computed at the following billing rates:

Navigant Consulting                      142.75 hours @ \$275 per hour                      \$39,256.25

<u>Name</u>	<u>Title</u>	<u>Hours</u>	<u>Amount</u>
RICHARD FAUGHNAN	Managing Director	0.25	\$ 68.75
KENNETH G. YORMARK	Director	75.00	20,625.00
ALLISON MAY	Managing Consultant	4.75	1,306.25
JULIAN LEE	Senior Consultant	62.75	17,256.25
<b>Total</b>		<b>142.75</b>	<b>\$ 39,256.25</b>

Total Fees    \$39,256.25

Disbursements and Out-of-Pocket Expenses    \$147.40

(detailed on time record)

13. As set forth in Footnote 1 above, Navigant maintains holdback fees from the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, and Tenth interim fee periods, in the sum of \$52,842.90.

14. By the current Application, Navigant is seeking payment of holdbacks equal to \$20,000.00.

WHEREFORE, in accordance with the Court Order signed by the Honorable Dorothy Eisenberg, Bankruptcy Judge, on April 21, 2009 (approving Navigant's retention as forensic accountants to the Trustee as of March 18, 2009), petitioner hereby requests the entry of an Order awarding fees in the amount \$39,256.25 for the current application and authorize payment of eighty percent (80%) thereof, amounting to \$31,405.00 together with reimbursement of disbursements and out-of-pocket expenses in the amount of \$147.40 for the current application period, for a total award of fees and expenses for the Eleventh Interim Fee Period of \$31,552.40, and in accordance with this Court's prior Orders awarding Navigant's First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, and Tenth Interim Fee Applications, an award of holdback fees in the amount of \$20,000.00, for a total award of \$51,552.40.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 24<sup>th</sup> Day of September, 2014.

s/Kenneth G. Yormark

KENNETH G. YORMARK

s/Ellen Mortimer  
ELLEN MORTIMER  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01MO6288336  
Qualified in New York County  
My Commission Expires September 03, 2017

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## Description

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Performed substantive and analytic procedures on debtor's financial records encompassing thirty-two bank accounts and QuickBooks Accounting System. Examination was concentrated on identifying investor-related deposits and disbursements, commingling of assets, as well as any suspicious, unusual, or unsupported entries and transactions.

Prepared Investor Clawback Analyses, detailing and documenting thousands of transactions relating to defendants who received greater than or equal to \$10,000 net proceeds. Generated separate Clawback Analyses for activity that occurred within 6 years and 2 years of the bankruptcy petition filing date. In addition to regular Clawback Analyses, also assisted counsel in preparing documentation for trials which contained additional QuickBooks screenshot extracts and bank statement support and testified in bankruptcy court as expert witness regarding Clawbacks.

Analyzed the claims filed by defendants in hundreds of bankruptcy adversary proceedings. As a result of significant discrepancies within the debtor's books and inconsistent identification systems within bank records, these claims needed to be individually verified and integrated into existing records and examination results.

Examined debtor's forensically preserved electronic server in an attempt to substantiate investor defense claims. Referenced original investor agreements and account rollover forms to corroborate actual deposits and trace investment account histories, including purported interest accruals.

Verified, on a transactional basis, the ultimate origins and destinations of deposits and disbursements to and from the debtor's interrelated entities.

Maintained a comprehensive database integrating the debtor's accounting system with thousands of previously unidentified transactions that have been discovered and traced throughout the life cycle of the investigation.

**Agape World Inc. and Agape Merchant Advance**

Application for interim compensation and reimbursement of expenses

Employee Time Summary - February 1, 2014 through August 31, 2014

<u>Name</u>	<u>Title</u>	<u>Hours</u>	<u>Amount</u>
RICHARD FAUGHNAN	Managing Director	0.25	\$ 68.75
KENNETH G YORMARK	Director	75.00	\$ 20,625.00
ALLISON MAY	Managing Consultant	4.75	\$ 1,306.25
JULIAN LEE	Senior Consultant	62.75	\$ 17,256.25
<b>Total</b>		<b>142.75</b>	<b>\$ 39,256.25</b>

<u>Name</u>	<u>Hours</u>	<u>Amount</u>	<u>Description</u>
			Updated Moor analysis, correspondence with counsel, I
LEE, JULIAN	5.25	1,443.75	analysis for Giraldo
LEE, JULIAN	2.75	756.25	Preparation and review of trial analysis - Giraldo
			Updated Agape tracker of outstanding items, prepared
LEE, JULIAN	1.50	412.50	analysis.
YORMARK, KENNETH G	3.00	825.00	Trial Analysis
LEE, JULIAN	0.25	68.75	Investor analysis - Giraldo
			Revised Giraldo cover sheet, searched for cancelled che
LEE, JULIAN	1.50	412.50	Valdez services
LEE, JULIAN	0.25	68.75	Correspondence with counsel re: Karen Cullin
LEE, JULIAN	1.00	275.00	Deposit confirmation - Schweid
LEE, JULIAN	2.50	687.50	Prepared trial analyses for VOZ Management, Duarte, I
YORMARK, KENNETH G	4.50	1,237.50	Review Trial Analysis
LEE, JULIAN	1.00	275.00	Prepared updated investor analyses for Mohar, Maccar
YORMARK, KENNETH G	8.50	2,337.50	Agape- trial document analysis
YORMARK, KENNETH G	10.50	2,887.50	Declarations and trial document analysis
YORMARK, KENNETH G	7.00	1,925.00	Preperation for trials
YORMARK, KENNETH G	7.00	1,925.00	Review trial documents
LEE, JULIAN	0.25	68.75	Correspondence with counsel re: Newton and Maria M
YORMARK, KENNETH G	3.50	962.50	Agape- review analysis
YORMARK, KENNETH G	4.50	1,237.50	Review Analysis
YORMARK, KENNETH G	0.50	137.50	Request for documents
YORMARK, KENNETH G	5.50	1,512.50	Review trial documents
LEE, JULIAN	1.00	275.00	Updated Agape tracker, correspondence with counsel r
YORMARK, KENNETH G	2.50	687.50	Agape- review trial documents
YORMARK, KENNETH G	3.50	962.50	Agape- review trial document
			Prepared combined investor analysis for Priolo and Arr
			Agape tracker of outstanding requests; deposit confirm:
LEE, JULIAN	2.75	756.25	Amilcar Rodriguez
			Prepared Santoro and Ricsanric investor analyses, recor
LEE, JULIAN	6.25	1,718.75	deposits; Torres deposit confirmation
LEE, JULIAN	1.50	412.50	Investor analysis - Ovalle Sr.
LEE, JULIAN	5.00	1,375.00	Prepared investor analyses - Glenys Rodriguez, Almont
YORMARK, KENNETH G	3.50	962.50	Agape - review trial analysis
LEE, JULIAN	2.75	756.25	Prepared investor anlaysis - Sandra Velez, John Velez
YORMARK, KENNETH G	3.50	962.50	Trial preparation
LEE, JULIAN	0.75	206.25	Investor analysis - ACO holdings
YORMARK, KENNETH G	2.50	687.50	Trial preparation
YORMARK, KENNETH G	1.00	275.00	Testimony
YORMARK, KENNETH G	4.00	1,100.00	Travel to Trials
LEE, JULIAN	0.50	137.50	Confirmed deposit from Karen Cullin, discussion with l
LEE, JULIAN	1.75	481.25	Investor analysis - Serrano, Piccoli
LEE, JULIAN	0.50	137.50	Investor analysis - ACO Holdings
LEE, JULIAN	1.50	412.50	Investor analysis - ACO Holdings
LEE, JULIAN	0.25	68.75	Updated Cullin analysis per instructions from D. Maho
LEE, JULIAN	0.25	68.75	Review of analysis for Torres, correspondence with Dav
LEE, JULIAN	1.00	275.00	Prepared investor analysis for Alan Hayon
LEE, JULIAN	0.50	137.50	Investor analysis - Jose Magallan
LEE, JULIAN	0.25	68.75	Prepared disbursements for Prisco, correspondence wit
LEE, JULIAN	0.25	68.75	Reviewed deposits for Wayne Raso
LEE, JULIAN	1.50	412.50	Investor deposit confirmation - Wayne Raso
LEE, JULIAN	0.25	68.75	Review of deposits from Bianchi, Chomiaki



<b>Name</b>	<b>Hours</b>	<b>Amount</b>	<b>Description</b>
LEE, JULIAN	0.25	68.75	Updated investor analysis - Hunter
LEE, JULIAN	3.50	962.50	Deposit confirmation for Joseph Dara and Realty Invest
FAUGHNAN, RICHARD	0.25	68.75	Review of investor analysis
LEE, JULIAN	1.25	343.75	Reviewed deposit provided by Carlos Marin, reconciled
LEE, JULIAN	1.50	412.50	Review of Trinchese deposit, reconciled transactions for
LEE, JULIAN	0.50	137.50	Update of Davila analysis, Palermo (Automotion \$25K c
LEE, JULIAN	1.50	412.50	Investor analysis - Davila
LEE, JULIAN	0.25	68.75	Confirmation of additional Davila deposits
LEE, JULIAN	4.25	1,168.75	Confirmation of Davila deposits, reconciliation of bank
LEE, JULIAN	1.00	275.00	Review of bank records for Carlos Harin
LEE, JULIAN	1.00	275.00	Deposit confirmation for Luisa Wilson, David Palermo, Updated anlyses for Luisa Wilson, Tatkow, Bridgehan
LEE, JULIAN	1.50	412.50	LLC
MAY, ALLISON	1.00	275.00	Deposit and disbursement analysis for Maria Mendez
MAY, ALLISON	0.25	68.75	Deposit and disbursement analysis for Maria Mendez
MAY, ALLISON	2.50	687.50	Agape mediation assistance (Capital Management Wor
MAY, ALLISON	0.50	137.50	Deposit and Disbursement analysis for Francisco Davila
MAY, ALLISON	0.50	137.50	Updates to deposit and disbursement analyses for Ruben and Sandra Gonzales
<b>TOTAL</b>	<b>142.75</b>	<b>\$ 39,256.25</b>	

**Agape World Inc. and Agape Merchant Advance**

Application for interim compensation and reimbursement of expenses

Expense Detail - February 1, 2014 through August 31, 2014

<u>Date</u>	<u>Name</u>	<u>Amount</u>	<u>Description</u>
3/13/2014	YORMARK, KENNETH G	21.00	Meals (Self) Breakfast and Lunch - Agape trials
3/13/2014	YORMARK, KENNETH G	106.40	Miles enroute to Agape trials
3/13/2014	YORMARK, KENNETH G	20.00	Tolls enroute to Agape trials
<b>TOTAL</b>			
		<u>\$ 147.40</u>	