

SILVERMANACAMPORA LLP
Counsel to Kenneth P. Silverman, Esq.,
Chapter 7 Trustee
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300
David J. Mahoney, Esq.
Robert J. Ansell, Esq.
Bradley A. Fishman, Esq.

Presentment Date: May 21, 2012
Time: 10:00 a.m.

Objections Due: May 17, 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.

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

Plaintiff,

-against-

ADAM WRIGHT,

Defendant.
-----X

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

Adv. Pro. No.: 11-09108 (AST)

**NOTICE OF PRESENTMENT OF PROPOSED
ORDER UNDER BANKRUPTCY RULE 9019(a) APPROVING A
STIPULATION SETTLING THE TRUSTEE'S CLAIMS AGAINST ADAM WRIGHT**

PLEASE TAKE NOTICE, that upon the application (the "Motion") 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 Alan S. Trust, United States Bankruptcy Court for the Eastern District of New York, in his courtroom 960, located at Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, New York 11722 on **May 21, 2012 at 10:00 a.m.**, seeking

approval of the stipulation settling the Trustee's claims against Adam Wright. A copy of the proposed Order is annexed hereto.

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) delivered to Chambers of the Honorable Alan S. Trust, United States Bankruptcy Judge, United States Bankruptcy Court, Courtroom 960, 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 17, 2012**.

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 a hearing will be provided by the applicant.

PLEASE BE ADVISED, that if no objection is received by the Objection Deadline, the Court may enter the attached Order approving the stipulation without further notice.

Dated: Jericho, New York
April 23, 2012

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

By: s/ David J. Mahoney
David J. Mahoney
Robert J. Ansell
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300

SILVERMANACAMPORA LLP
Counsel to Kenneth P. Silverman, Esq.,
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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.: 11-09108 (AST)

-against-

ADAM WRIGHT,

Defendant.
-----X

**TRUSTEE'S MOTION UNDER BANKRUPTCY RULE
9019(a) SEEKING THE ENTRY OF AN ORDER APPROVING A
STIPULATION SETTLING THE TRUSTEE'S CLAIMS AGAINST ADAM WRIGHT**

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 Rule of Bankruptcy Procedure 9019 for entry of an Order approving the proposed settlement of the Trustee's claims under 11 U.S.C. §§105(a), 541, 542, 544 and 550(a)(2) against Adam Wright (the "Defendant"), annexed hereto as **Exhibit A**, as memorialized in the Stipulation Settling the Trustee's Claims Against Adam Wright (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.

7. The Trustee and his counsel investigated the financial affairs of the Debtors. The investigation included an analysis of certain transfers made by the Debtors to Cyrek Inc. ("Cyrek"), and all subsequent transfers by Cyrek, now a judgment debtor, to Defendant.

8. On June 6, 2011, the Trustee commenced an adversary proceeding against Defendant, with Adv. Pro. No. 11-09108, by the filing of a complaint, wherein the Trustee sought the return of certain subsequent transfers totaling Eighty-Three Thousand Five Hundred and

00/100 (\$83,500.00) Dollars (the "Subsequent Transfers") made by Cyrek to Defendant (the "Trustee's Claims").

9. The Trustee and the Defendant, through his counsel, Cristina M. Lipan, Esq., engaged in settlement discussions seeking a resolution of the Adversary Proceedings. In an effort to avoid the costs, expenses and uncertainty of continued litigation, the parties have now agreed to resolve the issues raised in the Trustee's Claim upon the terms and conditions contained in the Stipulation.

10. The Trustee has agreed to accept the Defendant's waiver of his claim filed with the estate, numbered 435, in the amount of One Hundred Ninety Thousand And 00/100 (\$190,000.00) (the "Wright Claim") in settlement of the Trustee's Claims.

Settlement

11. The Trustee has determined that settling this matter is in the best interests of the Debtor's estate and 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 efforts.

12. Indeed, after consultation with his retained professionals and in the exercise of his business judgment, the Trustee has determined that expunging of the Wright Claim 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.

13. In light of the foregoing and mindful of the costs and risks of litigating the Trustee's Claims, the Trustee has agreed to accept Defendant's waiver of his claim.

Basis for Relief Requested

14. 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.

15. 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 Heissing Resources Ltd.)*, 67 B.R. 378, 383 (C.D. Ill. 1986) ("the law favors compromise").

16. 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.

17. 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).

18. The Trustee has determined that Defendant has documented a triable issue of fact as to whether Defendant provided fair consideration in exchange for the Transfers.

19. In consideration of the costs associated in enforcing the judgment and the uncertainties of further litigating the Trustee's Claims, the Trustee believes that the Settlement on the Trustee's Claims is fair, equitable and in the best interest of the Estate.

Notice of Motion

20. The Trustee has served the Notice of Hearing, 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 Debtor, (ii) the Defendant herein and his counsel (iii) the taxing authorities, and (iv) 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.

21. 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
April 23, 2012

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

By: s/ David J. Mahoney
David J. Mahoney
Robert J. Ansell
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.

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

Plaintiff,

-against-

ADAM WRIGHT,

Defendant.
-----X

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

Adv. Pro. No.: 11-09108 (AST)

**ORDER UNDER BANKRUPTCY RULE 9019(a) APPROVING A
STIPULATION SETTLING THE TRUSTEE'S CLAIMS AGAINST ADAM WRIGHT**

Upon the Notice of Presentment (the "Notice"), dated April 23, 2012, and related motion (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 approving a Stipulation (the "Stipulation") settling the Trustee's claims against Adam Wright (the "Defendant"); 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 the settlement of the Trustee's claims pursuant to 11 U.S.C. §§105(a), 541, 542, 544 and 550(a)(2) (the "Trustee's Claims") against Defendant to be fair, reasonable and in the best interest of the Debtors' estate; and the Court having found that service of the Notice, Motion with exhibit and proposed Order is sufficient cause having been shown therefore; and no additional notice being necessary or required:

NOW, THEREFORE, upon the Notice and Motion 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 Motion 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) the appropriate taxing authorities, 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 complies with this Court's Order Establishing Noticing Procedures entered on July 8, 2009 and amended by this Court's Order on October 13, 2011, and is otherwise sufficient; and it is further

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

ORDERED, that 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

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.

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

Plaintiff,

-against-

ADAM WRIGHT,

Defendant.
-----X

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

Adv. Pro. No.: 11-09108 (AST)

**STIPULATION AND ORDER (I) SETTLING THE TRUSTEE'S CLAIMS; AND
(II) DIRECTING THE CLERK OF THE COURT TO CLOSE THE ADVERSARY PROCEEDING**

I. On February 5, 2009 (the "Filing 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 in the Debtors' substantively consolidated case.

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

VI. On April 10, 2009, defendant Adam Wright ("Defendant") filed a proof of claim against the Debtor's estate, numbered 435, in the amount of One Hundred Ninety Thousand And 00/100 (\$190,000.00) Dollars (the "Wright Claim").

VII. 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 "Debtors").

VIII. The Trustee and his counsel have investigated the financial affairs of the Debtors, including a detailed analysis of the extent and validity of certain subsequent transfers made by to Defendant.

IX. On June 6, 2011, the Trustee commenced this adversary proceeding against Defendant by the filing of a complaint, wherein the Trustee asserted that certain transfers totaling Eighty-Three Thousand Five Hundred And 00/100 (\$83,500.00) Dollars (the "Transfers") made to the Defendant are recoverable pursuant to Bankruptcy Code §550 (the "Trustee's Claims").

X. Thereafter, Defendant retained his undersigned counsel to defend against the Trustee's Claims.

XI. The parties have engaged in informal discovery related to the Trustee's Claims, Defendants' asserted defenses to the Trustee's Claims and the Wright Claim.

XII. In the spirit of compromise and without any admission of liability, Defendant has offered to voluntarily withdraw the Wright Claim in exchange for the Trustee's dismissal of the adversary proceeding against Defendant and in full and final settlement of the Trustee's Claims.

XIII. Based upon the 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 Trustee's Claims upon the following terms and conditions, which the Trustee believes are fair and reasonable, especially in light of the costs and uncertainty associated with litigation.

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

Defendant's Obligation to Pay the Settlement Sum

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

2. Upon the Approval Order becoming final and non-appealable, the fourteenth day after the date of the entry of the Approval Order, (i) the Wright Claim will be expunged; and (ii) adversary proceeding case number 11-09108 (AST), will be closed.

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

Releases

4. Once the Approval Order becomes final and non-appealable, the Wright Claim is expunged, and adversary case number 11-09108 (AST) is closed, the Trustee and the estate will be deemed to have released and forever discharged Defendant, his affiliated entities, agents, representatives, present or former officers, attorneys, directors, 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.

5. Once the Approval Order becomes final and non-appealable, the Wright Claim is expunged, and adversary case number 11-09108 (AST) is closed, Defendant will be deemed to

have released, discharged and waived 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.

No Admission

6. 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 voluntary withdrawal of the Claim shall be construed as an admission on Defendant's part.

Miscellaneous

7. 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.

8. 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.

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

10. 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.

11. 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.

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

13. Upon the entry of this Stipulation as an Order in this proceeding, the Clerk of the Court is directed to close this adversary proceeding.

Dated: Jericho, New York
April 5, 2012

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: Syosset, New York
April 5, 2012

BORGES & ASSOCIATES, LLC
Attorneys for Defendant

By: s/ Cristina M. Lipan
Cristina M. Lipan
Wanda Borges
575 Underhill Boulevard
Suite 118
Syosset, New York 11791
(516) 677-8200

Dated: Keene, New Hampshire
April 5, 2012

ADAM WRIGHT
Defendant

By: s/ Adam Wright
Adam Wright
19 Chase Place
Keene, New Hampshire 03431