

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.

Presentment Date: May 12, 2014  
Time: 9:30 a.m.

Objections Due: May 9, 2014  
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-

GEORGE PAVLOU,

Defendant.  
-----X

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

Adv. Pro. No.: 10-08745 (AST)

**NOTICE OF PRESENTMENT OF 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 GEORGE PAVLOU; 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, will present a proposed order before 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 **May**

**12, 2014 at 9:30 a.m.**, seeking entry of an Order 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 George Pavlou; 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) delivered 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 **May 9, 2014 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  
April 10, 2014

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

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

**SILVERMANACAMPORA LLP**

Counsel to Kenneth P. Silverman, Esq.,  
The Chapter 7 Trustee  
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Anthony C. Acampora, Esq.  
David J. Mahoney, Esq.

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

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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.: 10-08745 (AST)

-against-

GEORGE PAVLOU,

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 GEORGE PAVLOU; 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 George Pavlou (the "Defendant"), as

memorialized in the Stipulation Providing for the Conditional Satisfaction of the Trustee's Judgment Against George Pavlou (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 transfers totaling Three Hundred Thirty-Nine Thousand Five Hundred Eighty-Four and 98/100 (\$339,584.98) Dollars (the "Transfers") from the Debtors.

9. On June 18, 2009, Defendant filed: (a) a proof of claim, assigned claim number 4761 ("Claim 4761") in the general unsecured amount of \$113,693.56; and (b) a proof of claim, assigned claim number 4762 ("Claim 4762," and together with Claim 4761, the "General Unsecured Claims") in the general unsecured amount of \$486,777.40.

10. On November 5, 2010, the Trustee commenced this adversary proceeding against Defendant by the filing of a complaint (Adv. Pro. No. 10-08745) (the "Adversary Proceeding"), asserting that the Transfers are avoidable pursuant to 11 U.S.C. §§105, 502, 544, 548, 550, and 551, New York Debtor and Creditor Law §§273. 274, 275, 276, and 276-a, and New York common law (the "Trustee's Claims").

11. On June 19, 2010, the Trustee filed a motion for a default judgment against Defendant (the "Default Motion") for Defendant's failure to interpose an answer or otherwise respond in the Adversary Proceeding.

12. On July 24, 2012, the Court granted the Default Motion, and, on July 26, 2012, the Court entered a default judgment (the "Judgment") against Defendant.

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

14. In response to the Trustee's Subpoena, the Bank restrained joint bank accounts owned by Defendant and his wife, Donna Marie Pavlou (collectively, the "Bank Accounts"). At the time the Bank Accounts were restrained they were comprised of a joint checking account (ending in xxx1354) with a balance of \$239.55 and a joint savings account (ending in xxx5341) with a balance of \$16,752.61.

15. On August 23, 2010, the Trustee commenced a special proceeding entitled Kenneth P. Silverman vs. HSBC Banks USA, N.A., George Pavlou and Donna Pavlou, Index No. 23174-13, presently pending in the Suffolk County Supreme Court (the "Special Proceeding"). In the Special Proceeding, the Trustee filed a petition seeking a turnover order for the Bank Accounts (the "Trustee's Turnover Claims").

16. Defendant filed opposition to the Trustee's Turnover Claims.

17. Thereafter, Defendant's contacted the Trustee's counsel with respect to satisfying the Judgment. The parties engaged in informal discovery related to the Trustee's Claims and the defenses asserted by the Defendant, during which Defendant produced previously unaccounted for deposits made by Defendant, or for the benefit of Defendant by his son, Aristodemos Pavlou. Accordingly, Defendant's net transfer liability was concomitantly reduced to \$96,914.88 (the "Net Transfers"). Additionally, Defendant produced certified financial disclosure statements and informed the Trustee that he currently resides in Greece.

18. Defendant has offered to pay \$9,000.00 (the "Settlement Sum") to the Trustee, and waiver the General Unsecured Claims, in full and final settlement of the Judgment and the Trustee's Turnover Claim.<sup>1</sup>

19. Based upon the Trustee's review of all documentation related to the Net Transfers and his investigation of all attendant factors, including a review of Defendant's certified financial disclosures, the Trustee has, in his business judgment, agreed to accept Defendant's voluntary return of the Settlement Sum and a waiver of the General Unsecured Claims in full and final satisfaction of the Trustee's Judgment.

20. For all the reasons set forth herein, the Trustee submits that accepting Defendant's offer to remit the Settlement Sum, and a waiver of the General Unsecured Claims,

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<sup>1</sup> The Settlement Sum has been received by the Trustee and is in the "Estates' Earnest Monies" account, pending the Court approval of the Settlement.

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**

21. The Trustee has determined that settling this matter for the Settlement Sum and a waiver of the General Unsecured Claims 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**

22. 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).

23. 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>2</sup>

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<sup>2</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").

24. 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>3</sup> As stated in *Arrow Air*, the "approval of [a] proposed compromise and settlement is a matter of this Court's sound discretion."<sup>4</sup> In passing upon a proposed settlement, "the bankruptcy court does not substitute its judgment for that of the trustee".<sup>5</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>6</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."

25. The Second Circuit in *re Iridium Operating LLC*<sup>7</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>3</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>4</sup> *Arrow Air*, *supra*, 85 B.R. at 891.

<sup>5</sup> *In re Depo*, 77 B.R. at 384 (citations omitted).

<sup>6</sup> *Bell & Beckwith*, 77 B.R. at 612; see also *In re Handler*, 386 B.R. at 421.

<sup>7</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>8</sup>

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

27. 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 and the Trustee's Turnover Claim.

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

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

30. The Trustee submits that considering the costs and uncertainties associated with enforcing the Judgment against Defendant, who currently resides in Greece, as well as his review of Defendant's certified financial disclosure statements, it is unlikely that further collection efforts would result in a "net benefit" of the Debtors' estate in excess of the Settlement Sum and a waiver of the General Unsecured Claims. 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**

31. 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

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<sup>8</sup> See *In re Iridium Operating LLC*, 478 F.3d at 462; See also *In re Handler*, 386 B.R. at 421.

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 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.

32. 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  
April 10, 2014

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

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

# Exhibit A

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
In re:

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

Debtors.

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

Plaintiff,

-against-

GEORGE PAVLOU,

Defendant.  
-----X

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

Adv. Pro. No.: 10-08745 (AST)

**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 GEORGE PAVLOU; AND (III) RE-CLOSING THE ADVERSARY PROCEEDING**

Upon the Notice of Motion (the "Notice"), dated April 10, 2014, 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 George Pavlou; 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, 548, 550, and 551, New York Debtor and Creditor Law §§273, 274, 275, 276, and 276-a, and New York common law, 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 service of the Notice and Motion and proposed Order, having been provided to: (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) 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, and it is further

**ORDERED**, that the proposed satisfaction of judgment against Defendant, as memorialized in the Stipulation, is approved, and it is further

**ORDERED**, that the Trustee is authorized to take all actions necessary to have the Judgment marked satisfied against George Pavlou, including, but not limited to, filing this Order with the Suffolk County Clerk's Office, lifting the restraint on any bank account of George Pavlou, and dismissing the Special Proceeding; and it is further

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

# 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 (DTE)  
Substantively Consolidated

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

Plaintiff,

Adv. Pro. No.: 10-08745 (DTE)

-against-

GEORGE PAVLOU,

Defendant.  
-----X

**STIPULATION OF SETTLEMENT**

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. The Trustee and his counsel have investigated the financial affairs of the Debtor, including a detailed analysis of the extent and validity of certain transfers made by the Debtor to George Pavlou ("Defendant").

VIII. On November 5, 2010, the Trustee commenced this adversary proceeding (the "Adversary Proceeding") against Defendant by filing a complaint, wherein the Trustee asserted that: (i) certain transfers totaling \$339,584.98 (the "Transfers") made by the Debtor to the Defendant are avoidable pursuant to 11 U.S.C. §§105, 502, 544, 547, 548, 550, and 551, New York Debtor and Creditor Law §§273, 274, 275, 276, and 276-a, and New York common law, (the "Trustee's Claims").

IX. On June 19, 2012, the Trustee filed a motion for default judgment (the "Motion") for Defendant's failure to respond to the Complaint.

X. On July 26, 2012, the Court granted the Trustee's Motion and entered a judgment (the "Judgment") against the Defendant.

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

XII. In response to the Trustee's Subpoena, the Bank restrained joint accounts owned by the Defendant and his Wife, Donna Pavlou (Donna Marie Pavlou). At the time these joint accounts were restrained they were comprised of a joint checking account (No. 252001354) with a balance of \$239.55 and a joint savings account (No. 942665341) with a balance of \$16,752.61 (the "Bank Accounts").



XIII. On August 23, 2013, the Trustee commenced a Special Proceeding entitled Kenneth P. Silverman vs. HSBC Banks USA, N.A. George Pavlou and Donna Pavlou, Index No. 23174-13 presently pending in Suffolk County Supreme Court (the "Special Proceeding"). In said Proceeding, the Trustee filed a petition seeking a turnover order for the Bank Accounts (the "Trustee's Turnover Claims").

XIV. Defendant, through counsel filed Opposition to the Turnover Proceeding.

XV. Thereafter, Defendant's counsel contacted the Trustee's counsel with respect to the complaint and subsequently provided the Trustee with additional information which demonstrated previously unaccounted for deposits, as a result of which the Trustee contends made the Defendant a combined net winner of \$96,914.88, with his son, Aristodemos Pavlou.

XVI. Defendant, has furnished counsel for the Trustee with certain confidential 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.

XVII. In the spirit of compromise and without any admission of liability, Defendant has offered to remit the sum of \$9,000.00 (the "Settlement Sum") to the Trustee in full and final settlement of the Trustee's Claims and the Trustee's Turnover Claims.

XVIII. Based upon his review of all documentation related to the Transfers and his investigation of all attendant factors, the Trustee has, in his reasonable business judgment, agreed to settle the Trustee's Claims and the Trustee's Turnover 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 enforcing the Judgment and the Defendant's notarized affidavit setting forth that there are no assets located in the United States, other than the joint Bank Accounts.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the parties hereto, that the Trustee's Claims and the Trustee's Turnover Claims 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 by both Parties, the Defendant will remit a check, in the amount of \$9,000.00, 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. 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. Within five days after the Trustee receives the \$9,000 settlement sum and the check is deposited into the segregated account and clears, the Trustee shall submit to the Defendant and HSBC such documentation as required by HSBC, notifying HSBC that the information subpoena and restraining notice have been withdrawn by the Trustee, that the Trustee has no further interest in the Bank Accounts and that the Bank shall immediately release the Bank Accounts and all proceeds therein, regardless of said amounts to George Pavlou and/or Donna Marie Pavlou or to their counsel Robert A. Drucker, Esq.

4. Once the Approval Order becomes final and non-appealable (on the tenth day after the date of the entry of the Approval Order), Trustee's counsel shall transfer all settlement funds being held in the "Earnest Monies" account into the Debtor's estate account. If the Bankruptcy Court denies entry of the Approval Order, then Trustee's counsel will return the \$9,000 sum remitted by Defendant in payment of the Settlement Sum without undue delay, this

Stipulation will be null and void, and none of the terms herein shall be usable as evidence by either party.

**Proof of Claim**

5. As additional consideration for settling the Trustee's Claims and the Trustee's Turnover Claims, and to become effective after the restraining order upon the Bank Accounts is lifted and Defendant receives all proceeds in the Bank Accounts, 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 4761 and Claim 4762, in their entirety; (iii) waive his right to any further distribution from the Debtors' estate; (iv) execute the notice of waiver of the Claim 4761 and Claim 4762 (the "Notices of Waiver") annexed hereto as **Exhibit A**; and (v) authorize the Trustee's counsel to electronically file the Notices of Waiver with the Bankruptcy Court, and deliver the Notices of Waiver to the Trustee's retained claims and noticing agent after defendant recovers all proceeds in the Bank Accounts.

**Releases**

6. Upon the Approval Order becoming final and non-appealable, and the Trustee's receipt and clearance of the Settlement Sum, the Trustee and the estate release and forever discharge Defendant, his wife, Donna Marie Pavlou, his son Aristodemos Pavlou and their affiliated entities, agents, representatives, attorneys, assigns, heirs 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 and/ or the Trustee's Turnover Claims or any other claims arising out of or pertaining to the Bankruptcy Proceeding Case no. 09-70660 (DTE) and/ or to the Adversary Proceeding No. 10-08745 (DTE).

7. Upon the Approval Order becoming final and non-appealable, and upon the Trustee's filing of a stipulation of discontinuance with prejudice of the Special Proceeding, and upon HSBC's release of the Bank Accounts and proceeds therein to the Defendant, 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.

8. By executing this Stipulation, Defendant hereby represents and warrants that the Financial Information in the Certification submitted on February 12, 2014 is accurate and complete. If Defendant has made any material misrepresentation or omission regarding the nature and extent of his assets then, in such event, the releases set forth herein shall be deemed null and void and will have no force and effect.

9. Upon the Trustee's receipt and clearance of the entire Settlement Sum, the Trustee will file a satisfaction of Judgment on the docket of this Adversary Proceeding and will file a Stipulation of Discontinuance with prejudice in the pending Special Proceeding.

**No Admission**

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

**Miscellaneous**

11. 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.

12. 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.

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

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

15. 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.

16. 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.

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

Dated: Jericho, New York  
February 28, 2014  
MARCH 3

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Dated: New York, New York  
February 28, 2014

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