

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.  
Jay S. Hellman, Esq.

Hearing Date: May 14, 2013  
Time: 2:00 p.m.

Objections Due: May 8, 2013  
Time: 4:00 p.m.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
In re:

Chapter 7  
Case No.: 09-70660 (DTE)  
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.: 10-08246 (DTE)

-against-

PETER PETRONZI,

Defendant.  
-----X

**NOTICE OF MOTION UNDER FEDERAL RULE OF BANKRUPTCY  
PROCEDURE 9019(a) FOR AN ORDER APPROVING THE STIPULATION  
SETTLING THE TRUSTEE'S CLAIMS AGAINST PETER PETRONZI**

**PLEASE TAKE NOTICE**, that upon the motion (the "Motion") of Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee or "Plaintiff") for the substantively consolidated estate of Agape World, Inc., *et al.*, by his counsel, SilvermanAcampora LLP, will move before the Honorable Dorothy T. Eisenberg, United States Bankruptcy Court for the Eastern District of New York, located at Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, New York 11722 on **May 14, 2013 at 2:00 p.m.**, or as soon thereafter as counsel can be heard, seeking entry of an Order granting the Trustee's Motion under Bankruptcy Rule 9019(a) Seeking the

Entry of an Order Approving the Stipulation Settling the Trustee's Claims against Peter Petronzi.

A copy of the proposed Order is annexed 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 Dorothy T. Eisenberg, United States Bankruptcy Judge, United States Bankruptcy Court, Eastern District of New York, Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, New York 11722; (iv) mailed to SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753, Attn: 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 8, 2013 at 4:00 p.m.**

**PLEASE TAKE FURTHER NOTICE**, that the hearing may be adjourned without further notice other than by announcement of such adjournment in open court.

Dated: Jericho, New York  
April 5, 2013

**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

SILVERMANACAMPORA LLP  
Counsel to Kenneth P. Silverman, Esq.,  
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UNITED STATES BANKRUPTCY COURT  
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In re:

Chapter 7  
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AGAPE WORLD, INC.,  
AGAPE MERCHANT ADVANCE LLC,  
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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.: 10-08246 (DTE)

-against-

PETER PETRONZI,

Defendant.  
-----X

**TRUSTEE'S APPLICATION UNDER FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 9019(a) SEEKING THE ENTRY  
OF AN ORDER APPROVING THE STIPULATION  
SETTLING THE TRUSTEE'S CLAIMS AGAINST PETER PETRONZI**

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 application (the "Application") under 11 U.S.C. § 105 and Federal Rules of Bankruptcy Procedure 9019(a) for entry of an Order (annexed hereto as **Exhibit A**) approving the proposed settlement of the Trustee's claims against Peter Petronzi (the "Defendant") as memorialized in the Stipulation ("Stipulation"), which has been annexed hereto as **Exhibit B**. All

parties are encouraged to review the 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 (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 One Hundred Eleven Thousand One Hundred Twenty-Five and 00/100 (\$111,125.00) Dollars (the "Transfers") made by the Debtors to Defendant that are avoidable

pursuant to 11 U.S.C. §§544, 547, 548, 550 and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law.

9. On June 8, 2010, the Trustee commenced this adversary proceeding against Defendant by the filing of a complaint (Adv. Pro. No.: 10-08246) (the "Adversary Proceeding"), wherein the Trustee asserted that certain transfers totaling One Hundred Eleven Thousand One Hundred Twenty-Five and 00/100 (\$111,125.00) Dollars (the "Net Transfers") made by the Debtors to the Defendant prior to the Filing Date were avoidable pursuant to 11 U.S.C. §§544, 547<sup>1</sup>, 548, 550 and 551 and New York Debtor and Creditor Law §§273 through 276-a and New York Common Law (the "Trustee's Claims").<sup>2</sup>

10. On June 26, 2012, the Trustee filed a motion for default judgment (the "Default Motion") for Defendant's failure to answer or otherwise respond to the complaint.

11. On September 21, 2012, the Defendant filed an answer to the complaint.

12. On September 26, 2012, the Trustee withdrew his Default Motion.

13. On December 17, 2012, this Court issued a Scheduling Order setting a trial date of February 11, 2013.

14. Prior to the trial date, counsel for the Trustee and counsel for the Defendant engaged in settlement discussions seeking a global resolution of the Adversary Proceedings and, during the process, the Defendant and his wife, GERALYNN PETRONZI, ("Wife") provided the Trustee with confidential financial information concerning all assets and liabilities of Petronzi and his Wife (collectively the "Financial Information") to allow the Trustee to evaluate the

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<sup>1</sup> The Trustee's claim under 11 U.S.C. §547(b) seeks \$68,000.

<sup>2</sup> On May 20, 2011, the Trustee also commenced an adversary proceeding against Peter Petronzi ("Petronzi") by filing a complaint under 11 U.S.C. §§541, 542, 544 and 550(a)(2) in the Bankruptcy Court (Adv. Pro. No. 11-09074) seeking to set aside certain transfers made by Brandino Corp. to the Defendant in partial satisfaction of the Trustee's judgment obtained against Brandino Corp. (the "550 Adversary Proceeding" and, together with the Adversary Proceeding, the "Adversary Proceedings").

wisdom of any settlement.<sup>3</sup> In light of the Trustee's due diligence and the costs and risks attendant with any continued litigation and resulting judgment enforcement, if any, in the exercise of the Trustee's business judgment, the settlement is fair and reasonable and the Stipulation should be approved.

#### **Terms of the Settlement**

15. The Stipulation provides that Petronzi shall pay the Trustee the sum of Fifty Thousand Dollars (\$50,000.00) by check made payable to "Kenneth P. Silverman, Esq., as Chapter 7 Trustee". Payment shall be made as follows: an initial payment of \$20,000.00 with the execution of the Stipulation;<sup>4</sup> one (1) payment of \$10,000.00 on April 30, 2013, one (1) payment of \$10,000.00 on May 30, 2013, and the final payment of \$10,000.00 on June 30, 2013.

16. The Stipulation also provides that if Petronzi fails to timely pay any portion of the funds in accordance with the terms of the Stipulation, and Petronzi does not cure such default, the Trustee shall be entitled to move for the entry of a judgment against Petronzi for One Hundred Eleven Thousand One Hundred Twenty-Five and 00/100 (\$111,125.00) Dollars, the amount claimed in the Adversary Proceeding and Fourteen Thousand Eight Hundred Ninety-Five and 00/100 (\$14,895.00) Dollars, the amount claimed in the 550 Adversary Proceeding.

17. The Stipulation further provides that, upon entry of the Approval Order, the Defendant and his Wife waive all rights in and to Proof of Claim No. 2877. Upon entry of the Approval Order, Proof of Claim No. 2877 will be deemed withdrawn.

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<sup>3</sup> As set forth in the Stipulation, Petronzi and his wife have represented and warranted that the information provided was accurate and complete and, in the event the Court approves the Stipulation but thereafter any material misrepresentation concerning the assets of Defendant and his Wife are discovered, the Trustee will be permitted to retain the Settlement Sum and seek to re-open the Adversary Proceedings against the Defendant.

<sup>4</sup> The first \$20,000.00 payment has been made and is in the IOLA account of Trustee's Counsel, pending the Court's approval of the Settlement.

### 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.

*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>5</sup> 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

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<sup>5</sup> *Handler v. Roth (In re Handler)*, 386 B.R. 411, 420 (Bankr. E.D.N.Y. 2007)(quoting *In re Adelpia 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).

bankruptcy court does not substitute its judgment for that of the trustee". *In re 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."<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." *Bell & Beckwith*, 77 B.R. at 612; see also *In re Handler*, 386 B.R. at 421.

21. The Second Circuit in *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;
- 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.

See *In re Iridium Operating LLC*, 478 F.3d at 462.

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<sup>6</sup> *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983), *cert denied*, 464 U.S. 822 (1983)(quoting *Newman v. Stein*, 464 F.2d 689, 693 (2d Cir. 1972), *cert denied*, 409 U.S. 1039 (1972); See *In re Handler*, 386 B.R. at 420-21.

<sup>7</sup> 478 F.3d 452 (2d Cir. 2007).

22. By payment of the Settlement Sum, Defendant will remit a significant portion of the Net Transfers for which the Trustee believes Defendant may be liable in satisfaction of the Trustee's Claims, without causing the Debtor's estate to incur significant fees or expenses.

23. The Trustee submits that considering the costs and uncertainties associated with trial and judgment enforcement, and the amount of the Trustee's demand, it is unlikely that further litigation would result in a "net benefit" to the Debtors' estate in excess of the Settlement Sum. In the sound business judgment of the Trustee, 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**

24. The Trustee has served the Notice of Motion, proposed Order, and Motion in support with Exhibit upon: (i) the Office of the United States Trustee; (ii) Nicholas Cosmo, former principal of the Debtors, (iii) Defendant, (iv) Defendant's counsel, (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](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.

25. 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 5, 2013

**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

# **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-

PETER PETRONZI,

Defendant.  
-----X

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

Adv. Pro. No.: 10-08246 (DTE)

**ORDER UNDER FEDERAL RULE OF BANKRUPTCY PROCEDURE 9019(a)  
APPROVING THE STIPULATION SETTLING THE TRUSTEE'S CLAIMS  
AGAINST PETER PETRONZI AND DISMISSING ADVERSARY  
PROCEEDING NUMBERS 10-08246 AND 11-09074 AGAINST PETER PETRONZI**

Upon the Notice of Motion (the "Notice"), dated April 5, 2013, 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 approving the Stipulation Settling the Trustee's Claims against Peter Petronzi (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. §§544, 547, 548, 550 and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law against Defendant to be fair, 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 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) Defendant, (iv) Defendant's counsel, (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](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 settlement of the Trustee's Claims against Defendant as memorialized in the Stipulation is approved, and it is further

**ORDERED**, that Proof of Claim No. 2877 filed by the Defendant Peter Petronzi and his Wife is hereby waived, 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.

# **EXHIBIT B**

**SILVERMANACAMPORA LLP**

Attorneys for Kenneth P. Silverman, Esq.,  
The Chapter 7 Trustee  
100 Jericho Quadrangle - Suite 300  
Jericho, New York 11753  
(516) 479-6300  
David J. Mahoney, Esq.  
Jay S. Hellman, Esq.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

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

Adv. Pro. No.: 10-08246 (DTE)

-against-

PETER PETRONZI,

Defendant.

-----X

**STIPULATION (I) SETTLING THE TRUSTEE'S CLAIMS AGAINST  
PETER PETRONZI; (II) WAIVING CLAIM NUMBER 2877 FILED BY  
PETER PETRONZI; AND (III) DISMISSING ADVERSARY  
PROCEEDING NUMBERS 10-08246 AND 11-09074 AGAINST PETER PETRONZI**

**WHEREAS**, 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.

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

**WHEREAS**, 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.

**WHEREAS**, 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.

**WHEREAS**, on March 4, 2009, the Court issued an Order for relief in the AWI chapter 7 case.

**WHEREAS**, 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").

**WHEREAS**, The Trustee and his counsel have investigated the financial affairs of the Debtors, including a detailed analysis of the extent and validity of certain transfers made by Agape to Peter Petronzi ("Defendant" or "Petronzi").

**WHEREAS**, On June 8, 2010, the Trustee commenced this adversary proceeding against Defendant by the filing of a complaint (Adv. Pro. No. 10-08246) (the "Adversary Proceeding"), wherein the Trustee asserted that certain transfers totaling One Hundred Eleven Thousand One Hundred Twenty-Five and 00/100 (\$111,125.00) Dollars (the "Net Transfers") made by the Debtors to the Defendant prior to the Filing Date were avoidable pursuant to 11 U.S.C. §§544, 547<sup>1</sup>, 548, 550 and 551 and New York Debtor and Creditor Law §§273 through 276-a and New York Common Law (the "Trustee's Claims").<sup>2</sup>

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<sup>1</sup> The 547 claim seeks \$68,000.

<sup>2</sup> On May 20, 2011, the Trustee also commenced an adversary proceeding against Peter Petronzi ("Petronzi") by filing a complaint under 11. U.S.C. §§541, 542, 544 and 550(a)(2) in the Bankruptcy Court (Adv. Pro. No. 11-09074) seeking to set aside certain transfers made by Brandino Corp. to the Defendant

**WHEREAS**, on June 26, 2012, the Trustee filed a motion for default judgment (the "Motion") for Defendant's failure to answer or otherwise respond to the complaint.

**WHEREAS**, on September 21, 2012, the Defendant filed an answer to the complaint.

**WHEREAS**, on September 26, 2012, the Trustee withdrew his motion for default.

**WHEREAS**, on December 17, 2012, this Court issued a Scheduling Order setting a trial date of February 11, 2013.

**WHEREAS**, counsel for the Trustee and counsel for the Defendant have engaged in settlement discussions seeking a global resolution of the Adversary Proceedings and of any and all other issues in an effort to avoid the costs, expenses, and uncertainty of continued litigation, and the parties have now agreed to resolve the issues raised in the Adversary Proceedings upon the terms and conditions contained in this Stipulation of Settlement (the "Stipulation").

**NOW, THEREFORE**, it is hereby stipulated and agreed by and between the parties hereto, individually and through counsel, that the Adversary Proceedings are resolved upon the terms and conditions set forth as follows:

1. Petronzi shall pay the Trustee the sum of Fifty Thousand Dollars (\$50,000.00) by checks made payable to "Kenneth P. Silverman, Esq., as Trustee." Payment shall be made as follows: an initial payment of \$20,000.00 upon the execution of this Stipulation; one (1) payment of \$10,000.00 on April 30, 2013; one (1) payment of \$10,000.00 on May 30, 2013; and the final payment of \$10,000.00 on June 30, 2013.

2. If Petronzi fails to timely pay any portion of the funds in accordance with paragraph 1, above, or if payment is dishonored for any reason whatsoever and Petronzi does not cure such default within three (3) business days after written notice sent by Federal Express or other reputable overnight courier to Petronzi and his counsel at the addresses set forth below, then the Trustee shall be entitled to move before the Bankruptcy Court, without further

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in partial satisfaction of the Trustee's judgment obtained against Brandino Corp. (the "550 Adversary Proceeding" and, together with the Adversary Proceeding, the "Adversary Proceedings").

notice and upon the affidavit by the Trustee attesting to the default, (a) for the entry of a judgment against Petronzi for One Hundred Twenty-Six Thousand Twenty and 00/100 (\$126,020.00) Dollars, representing (i) One Hundred Eleven Thousand One Hundred Twenty-Five and 00/100 (\$111,125.00) Dollars, the amount claimed in the Adversary Proceeding, and (ii) Fourteen Thousand Eight Hundred Ninety-Five and 00/100 (\$14,895.00) Dollars, the amount claimed in the 550 Adversary Proceeding, together with costs, less any sums previously paid, and (b) for any further relief necessary to enforce his rights under this Stipulation. Written notice of default shall be sent by Federal Express or other reputable overnight courier to Peter Petronzi at 3664 Prairie Path, Bethpage, New York 11714 and Michelangelo Matera, Esq., The Matera Law Firm, 560 Broadhollow Road, Suite 303, Melville, New York 11747, unless the Trustee is advised of a different address by prior written notice sent by Federal Express or other reputable overnight courier.

3. Upon full execution of this Stipulation and entry of the Approval Order, as defined in paragraph 7 hereof, and except as otherwise provided herein, the Trustee, on behalf of himself and the Debtors and the estate, releases, and forever discharges Petronzi and Geralynn Petronzi, his wife ("Wife"), their heirs, executors, assigns, and attorneys from any and all claims, claims for relief, demands, costs, damages, liabilities, and obligations of any nature whatsoever, in law or in equity, known or unknown, anticipated or unanticipated, or hereafter becoming known. For purposes of clarification, notwithstanding the foregoing, the released claims hereunder shall not include any claims to enforce the express terms of this Stipulation, including, without limitation, any claims arising out of any breach of the representation and warranty of Petronzi and his Wife contained in paragraph 5 hereof. The parties hereto acknowledge and agree that the release, discharge, and covenant not to sue provided for in this paragraph 3 shall not be deemed to constitute a waiver or release of any claims or defenses in any other adversary proceedings currently pending or to be commenced in the Bankruptcy Court case of the Debtor against any non-parties to this Stipulation.

4. Upon full execution of this Stipulation and entry of the Approval Order, as defined in paragraph 7 hereof, and except as otherwise provided herein, Peter Petronzi and his Wife, release the Trustee, the Debtors' estate and their agents, attorneys, and assigns from any and all claims, claims for relief, demands, costs, expenses, damages, liabilities, and obligations of any nature whatsoever, known or unknown, anticipated or unanticipated, or hereafter becoming known. For purposes of clarification, notwithstanding the foregoing, the released claims hereunder shall not include any claims to enforce the express terms of this Stipulation.

5. Petronzi, on behalf of himself and his Wife, have previously furnished counsel for the Trustee with certain confidential financial information concerning all assets and liabilities of Petronzi and his Wife (collectively, the "Financial Information"). Petronzi and his Wife acknowledge 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. By executing this Stipulation, Petronzi and his Wife hereby represent and warrants that the Financial Information is accurate. The Trustee specifically reserves the right to retain the benefits of the settlement herein and re-open the Adversary Proceeding and the 550 Adversary Proceeding if the Trustee, in his sole discretion, determines that Petronzi and his Wife have made any material misrepresentation or omission regarding the nature and extent of their assets and, in such event, the release set forth in paragraph 3 hereof shall be deemed null and void and will have no force and effect.

6. It is understood and agreed that this Stipulation is not to be construed as an admission of any criminal liability, and that this Stipulation is entered into to avoid costly and protracted litigation.

7. This Stipulation is subject to the entry of a final, non-appealable order of the Bankruptcy Court (the "Approval Order"). Upon full execution of this Stipulation, the Trustee's counsel will promptly file and serve an application for approval under Rule 9019 of the Federal

Rules of Bankruptcy Procedure for the entry of the Approval Order.

8. Upon the entry of the Approval Order, the Defendant and his Wife waive all rights in and to Proof of Claim No. 2877. Proof of Claim No. 2877 shall be deemed withdrawn.

9. Upon the entry of the Approval Order, the Trustee shall file stipulations discontinuing the Adversary Proceedings in the form annexed hereto as **Exhibit 1**.

10. If the Bankruptcy Court fails to enter the Approval Order or the Approval Order is reversed on appeal or otherwise fails to become a final, non-appealable order, then (i) this Stipulation will be null and void and of no force and effect, (ii) the parties shall return to the *status quo ante*, reserving all rights, claims and defenses, (iii) nothing contained herein will be deemed an admission or waiver of the rights of either party, (iv) this Stipulation shall not be used for any reason by either party in the litigation, and (v) the Trustee shall return the Settlement Sum to Defendant, to the extent paid, as soon as practicable.

11. This Stipulation may be executed in one or more counterparts, each of which is deemed an original, together constituting one and the same document. Facsimile signatures and signatures that are scanned and sent by e-mail ("electronic signature") are treated as a binding and original document, and the facsimile or electronic signature of either party is considered an original signature.

12. Each of the parties irrevocably consents to the jurisdiction of this Court with respect to any action to approve and enforce the terms and provisions of this Stipulation, and expressly waives any right to commence any action in any other forum or to contest this Court's jurisdiction.

13. 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.

14. This Stipulation may not be altered, modified, or changed unless in writing, signed by the parties and subject to appropriate Bankruptcy Court order.

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

Dated: Jericho, New York  
March 22, 2013

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

By: s/ Jay S. Hellman  
Jay S. Hellman  
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(516) 479-6300

Dated: Bethpage, New York  
March 18, 2013

**PETER PETRONZI**

s/ Peter Petronzi  
Peter Petronzi

Dated: Bethpage, New York  
March 18, 2013

**GERALYNN PETRONZI**

s/ GERALYNN PETRONZI  
Geraldynn Petronzi

Dated: Melville, New York  
March 18, 2013

**THE MATERA LAW FIRM**  
**MICHAELANGELO MATERA, ESQ.**  
Counsel to Defendant Peter Petronzi

By: s/ Michaelangelo Matera  
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(516) 741-6700

# **EXHIBIT 1**

**SILVERMANACAMPORA LLP**  
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(516) 479-6300  
David J. Mahoney, Esq.  
Jay S. Hellman, Esq.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
In re:

Chapter 7  
Case No.: 09-70660 (DTE)  
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.: 11-09074 (DTE)

-against-

PETER PETRONZI,

Defendant.  
-----X

**STIPULATION OF DISMISSAL**

IT IS HEREBY STIPULATED AND AGREED, by and among the undersigned for the parties herein that all claims asserted by plaintiff Kenneth P. Silverman, Esq., as Chapter 7 Trustee, in this Adversary Proceeding, are hereby dismissed, with prejudice and without costs or attorneys' fees to any party.

Dated: Jericho, New York  
April \_\_, 2013

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

By: \_\_\_\_\_

Jay S. Hellman  
A Member of the Firm  
100 Jericho Quadrangle, Suite 300  
Jericho, New York 11753  
(516) 479-6300

Dated: Bethpage, New York  
April \_\_, 2013

**PETER PETRONZI**

\_\_\_\_\_  
Peter Petronzi

Dated: Melville, New York  
April \_\_, 2013

**THE MATERA LAW FIRM**  
**MICHAELANGELO MATERA, ESQ.**  
Counsel to Defendant Peter Petronzi

By: \_\_\_\_\_

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**SILVERMANACAMPORA LLP**  
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(516) 479-6300  
David J. Mahoney, Esq.  
Jay S. Hellman, Esq.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
In re:

Chapter 7  
Case No.: 09-70660 (DTE)  
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.: 10-08246 (DTE)

-against-

PETER PETRONZI,

Defendant.

-----X

**STIPULATION OF DISMISSAL**

IT IS HEREBY STIPULATED AND AGREED, by and among the undersigned for the parties herein that all claims asserted by plaintiff Kenneth P. Silverman, Esq., as Chapter 7 Trustee, in this Adversary Proceeding, are hereby dismissed, with prejudice and without costs or attorneys' fees to any party.

Dated: Jericho, New York  
April \_\_, 2013

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

By: \_\_\_\_\_

Jay S. Hellman  
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100 Jericho Quadrangle, Suite 300  
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(516) 479-6300

Dated: Bethpage, New York  
April \_\_, 2013

**PETER PETRONZI**

\_\_\_\_\_  
Peter Petronzi

Dated: Melville, New York  
April \_\_, 2013

**THE MATERA LAW FIRM**  
**MICHAELANGELO MATERA, ESQ.**  
Counsel to Defendant Peter Petronzi

By: \_\_\_\_\_

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