

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

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In re:

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

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

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

TO THE HONORABLE DOROTHY EISENBERG, BANKRUPTCY JUDGE:

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

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

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

3. I am not related to or have any business association with the Trustee, any attorney, creditor, the debtor, or any other party to the proceedings, except that I have been retained in other matters unrelated to this case as accountant for the Trustee.

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

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

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

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

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

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

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

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<sup>1</sup> By Order of the Court dated December 3, 2009, for the period March 18, 2009 through and including September 30, 2009, Applicant was awarded fees and expenses of \$534,256.25 and \$672.93, respectively, and this included a 20% holdback of fees equal to \$106,851.25. By Order of the Court dated August 3, 2010, for the period of October 1, 2009 through and including May 31, 2010, Applicant was awarded fees and expenses of \$294,868.75 and \$1,974.55, respectively, and this included a 20% holdback of fees equal to \$58,973.75. By Order of the Court dated November 23, 2010, for the period of June 1, 2010 through and including September 30, 2010, Applicant was awarded fees in the amount of \$470,387.50 (Applicant voluntarily waived its expenses of \$8.25) and this included a 20% holdback equal to \$94,077.50. By Order of the Court dated June 16, 2011, for the period of October 1, 2010 through and including February 28, 2011, Applicant was awarded fees and expenses of \$316,043.75 and \$6.21, respectively, and this included a 20% holdback equal to \$63,208.75. By Order of the Court dated February 29, 2012, for the period of March 1, 2011 through and including October 31, 2011, Applicant was awarded fees and expenses of \$185,418.75 and \$78.11, respectively, and this included a 20% holdback equal to \$37,083.75. By Order of the Court dated July 13, 2012, for the period of December 1, 2011 through and including April 30, 2012, Applicant was awarded fees and expenses of \$94,256.25 and \$24.75, respectively, and this included a 20% holdback equal to \$18,851.25. By Order of the Court dated February 28, 2013, for the period of November 1, 2011 through November 30, 2011, and May 1, 2012 through and including December 31, 2012, Applicant was awarded fees and expenses of \$248,600.00 and \$372.35, respectively, and this included a 20% holdback equal to \$49,720.00. By Order of the Court dated July 11, 2013, for the period of January 1, 2013 through and including April 30, 2013, Applicant was awarded fees and expenses of \$181,500.00 and \$678.75, respectively, and this included a 20% holdback equal to \$36,300.00. By Order of the Court dated November 15, 2013, for the period of May 1, 2013 through and including September 30, 2013, Applicant was awarded fees and expenses of \$85,937.50 and \$304.97, respectively, and this included a 20% holdback equal to \$17,187.50. To date, Applicant has been paid fees and expenses in the sum of \$2,355,054.00 and \$4,112.62, respectively, and for the total sum of \$2,359,166.62, which includes holdback fees of \$426,039.00. Applicant has not been paid the remaining holdback fees which total the sum of \$56,214.75.

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

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



WHEREFORE, in accordance with the Court Order signed by the Honorable Dorothy Eisenberg, Bankruptcy Judge, on April 21, 2009 (approving Navigant's retention as forensic accountants to the Trustee as of March 18, 2009), petitioner hereby requests the entry of an Order awarding fees in the amount \$83,140.75 for the current application and authorize payment of eighty percent (80%) thereof, amounting to \$66,512.60 together with reimbursement of disbursements and out-of-pocket expenses in the amount of \$537.61 for the current application period, for a total award of fees and expenses for the Tenth Interim Fee Period of \$67,050.21, and in accordance with this Court's prior Orders awarding Navigant's First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, and Ninth Interim Fee Applications, an award of holdback fees in the amount of \$20,000.00, for a total award of \$87,050.21.

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

Executed on this 28<sup>th</sup> Day of February, 2014.

s/ Kenneth G. Yormark

~~KENNETH G. YORMARK~~

# **EXHIBIT A**

SILVERMANACAMPORA LLP  
Counsel to Kenneth P. Silverman, Esq.,  
Interim Chapter 7 Trustee  
100 Jericho Quadrangle, Suite 300  
Jericho, New York 11753  
(516) 479-6300  
Ronald J. Friedman, Esq.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 7  
Case No. 09-70660 (DTE)

AGAPE WORLD, INC.,

Debtor.  
-----X

**ORDER FOR RETENTION OF NAVIGANT CONSULTING AS  
FORENSIC ACCOUNTANTS TO THE TRUSTEE AND THE ESTATE**

Upon the annexed application (the "Application") of Kenneth P. Silverman, Esq., the interim Chapter 7 Trustee of Agape World, Inc., (the "Debtor") by his attorneys SilvermanAcampora, LLP, seeking the entry of an order authorizing the employment of Navigant Consulting, Inc. ("Navigant") as forensic accountants to the Trustee, as well as the estate of the Debtor, and it appearing that Navigant represents no interests adverse to the Debtor, or to the estate in the matters upon which it is to be engaged, and that its employment is necessary and would be in the best interests of the estate, and that the within matter is one justifying the retention of a forensic accountant, and no further notice being required, it is hereby

**ORDERED**, that Navigant is retained and employed under 11 U.S.C. §327,328 and 330, as of March 18, 2009, as forensic accountants to the Trustee; and, it is further

**ORDERED**, that no compensation or reimbursement of expenses shall be paid to Navigant for services rendered to the Trustee, except upon proper application under 11 U.S.C. §§327, and 330 by further order of this Court; and it is further

**ORDERED**, that the Trustee is authorized and directed to take any and all such reasonable steps as may be necessary to implement the terms and condition of this Order.

Dated: Central Islip, New York  
April **21**, 2009

*s/ Dorothy Eisenberg*  
United States Bankruptcy Judge

Dated: Central Islip, New York  
April 17, 2009

**NO OBJECTION:**

*s/ Alfred M. Dimino*  
Office of the United States Trustee