

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.
Randy J. Schaefer, Esq.

Hearing Date: April 25, 2013
Time: 2:00 p.m.

Objections Due: April 18, 2013
Time: 4:00 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-

JOHN HUMANN, ROBERT HUMANN and
J & J SECURITIES INC.,

Defendants.

----- X

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

Plaintiff,

-against-

JOHN HUMANN, and
VANESSA HUMANN,

Defendants.

----- X

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

Adv. Pro. No.: 10-08259 (DTE)

Adv. Pro. No.: 11-09127 (DTE)

**NOTICE OF MOTION UNDER BANKRUPTCY RULE 9019 SEEKING THE
ENTRY OF AN ORDER APPROVING A STIPULATION SETTLING THE TRUSTEE'S
CLAIMS AGAINST JOHN HUMANN, VANESSA HUMANN, AND ROBERT HUMANN**

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 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 **April 25, 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 John Humann, Vanessa Humann, and Robert Humann. A copy of the proposed Order is attached 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 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: Randy J. Schaefer, Esq.; and (v) mailed to the Office of the United States Trustee, 560 Federal Plaza, Central Islip, New York 11722, no later than **April 18, 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
March 19, 2013

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

By: s/ David J. Mahoney
David J. Mahoney
A Member of the Firm
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SILVERMANACAMPORA LLP
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Chapter 7 Trustee
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(516) 479-6300
David J. Mahoney, Esq.
Randy J. Schaefer, 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.: 10-08259 (DTE)

-against-

JOHN HUMANN, ROBERT HUMANN and
J & J SECURITIES INC.,

Defendants.

----- X

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

Plaintiff,

Adv. Pro. No.: 11-09127 (DTE)

-against-

JOHN HUMANN, and
VANESSA HUMANN,

Defendants.

----- X

**TRUSTEE'S MOTION UNDER BANKRUPTCY RULE 9019 SEEKING THE
ENTRY OF AN ORDER APPROVING A STIPULATION SETTLING THE TRUSTEE'S
CLAIMS AGAINST JOHN HUMANN, VANESSA HUMANN, AND ROBERT HUMANN**

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 Rule 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for entry of an Order (attached as **Exhibit A**) approving the proposed settlement of the Trustee’s Claims against John Humann (“John”), Vanessa Humann (“Vanessa”), and Robert Humann (“Robert,” and collectively with John and Vanessa, the “Defendants”) as memorialized in the Stipulation Settling the Trustee’s Claims Against John Humann, Vanessa Humann, and Robert Humann (the “Stipulation”), which is attached as **Exhibit B**. All parties are encouraged to review the attached 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 the Court Order 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 John and Robert received certain transfers totaling \$32,253.00 (the “John and Robert Transfers”) made by the Debtors that were avoidable pursuant to 11 U.S.C. §§105(a), 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.

9. On June 11, 2010, the Trustee commenced an adversary proceeding, numbered 10-08259 (DTE), against John and Robert (the “John and Robert Adversary Proceeding”) by filing a complaint (the “First Complaint”) seeking to avoid the John and Robert Transfers pursuant to 11 U.S.C. §§105(a), 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 “John and Robert Claim”).

10. On July 14, 2010, John Humann and Robert Humann interposed an answer to the First Complaint.

11. Moreover, after obtaining a judgment (the “Cyrek Judgment”) against Cyrek, Inc., in the amount of \$16,000,000.00,¹ the Trustee determined that John and Vanessa received certain transfers totaling \$15,342.10 (the “John and Vanessa Transfers,” and collectively with

¹ On March 31, 2011, the Court granted judgment against Cyrek, Inc., in adversary proceeding 09-08444 (DTE).

the John and Robert Transfers, the “Transfers”) made by Cyrek, Inc., that were recoverable, in partial satisfaction of the Cyrek Judgment pursuant to 11 U.S.C. §§541, 542, and 550(a)(2)

12. On June 6, 2011, the Trustee commenced an adversary proceeding, numbered 11-09127 (DTE), against John and Vanessa (the “John and Vanessa Adversary Proceeding”, and collectively with the John and Robert Adversary Proceeding, the “Adversary Proceedings”) by filing a complaint (the “Second Complaint”) seeking to avoid the John and Vanessa Transfers pursuant to 11 U.S.C. §§541, 542, and 550(a)(2) (the “John and Vanessa Claim,” and collectively with the John and Robert Claim, the “Claims”).

13. Thereafter, the parties engaged in informal discovery related to the Claims and the defenses asserted by Defendants. During informal discovery, Defendants provided the Trustee with Certified Financial Statements and other documents related to Defendants’ financial condition and ability to pay any resulting judgment.

14. The Trustee and Defendants engaged in settlement discussions in an effort to resolve the Adversary Proceedings. In order to avoid the costs, expenses and uncertainty of continued litigation, the parties have now agreed to resolve the Claims upon the terms and conditions contained in the Stipulation.

15. Defendants have offered to pay \$25,000.00 (the “Settlement Sum”) to the Trustee in full and final settlement of the Claims.

16. For all of the reasons set forth herein, the Trustee submits that accepting Defendants’ offer to remit the Settlement Sum in full and final settlement of the Claims is a reasonable exercise of the Trustee’s business judgment and is in the best interests of the Debtors’ estate.

Settlement

17. The Trustee has determined that settling the Claims for the Settlement Sum 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 litigation of

the Claims and any resulting judgment efforts.

18. After consultation with his retained professionals and in the exercise of his business judgment, the Trustee has determined that the voluntary return of the Settlement Sum outweighs the potential net recovery to the estate if the Trustee elected to litigate the Claims through trial and enforce a resulting judgment against Defendant.

19. In light of the foregoing and mindful of costs and risks of litigating the Claims, the Trustee has agreed to accept the Settlement Sum.

Basis for Relief Requested

20. 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).

21. 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").

22. 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.”² 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”. *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.”³ 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.

23. The Second Circuit in *In re Iridium Operating LLC*⁴ 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;

² *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).

³ *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.

⁴ 478 F.3d 452 (2d Cir. 2007).

- 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.

24. By offering to voluntarily return the Settlement Sum, Defendants have offered to remit a significant portion of the Transfers for which the Trustee believes Defendants may be liable in satisfaction of the Claims without causing the Debtors' estate to incur significant fees or expenses.

25. The Trustee submits that considering the costs and uncertainties associated with trial and adversarial judgment enforcement, with special consideration paid to the Defendants' financial disclosures, it is unlikely that further litigation would result in a "net benefit" to the Debtors' estate in excess of the Settlement Sum. 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

26. The Trustee has served the Notice of Motion, Motion, and proposed Order upon: (i) the Office of the United States Trustee; (ii) Nicholas Cosmo, Debtors' former principal; (iii) Defendants; (iv) Defendants' counsel; (v) the appropriate taxing authorities; and (vi) all parties having filed a Notice of Appearance in this case. Additionally, copies of the Notice of Motion, Motion, and proposed Order have been posted on the Trustee's website located at 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.

27. 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 authorizing and approving the Stipulation and grant such other further and different relief as this Court deems just and proper.

Dated: Jericho, New York
March 19, 2013

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

By: s/ David J. Mahoney
David J. Mahoney
A Member 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-

JOHN HUMANN, ROBERT HUMANN and
J & J SECURITIES INC.,

Defendants.

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

Plaintiff,

-against-

JOHN HUMANN, and
VANESSA HUMANN,

Defendants.

----- X

**ORDER UNDER BANKRUPTCY RULE 9019
APPROVING THE STIPULATION SETTLING THE TRUSTEE'S
CLAIMS AGAINST JOHN HUMANN, VANESSA HUMANN, AND ROBERT HUMANN**

Upon the Notice of Motion (the "Notice"), dated March 19, 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 a Stipulation (the "Stipulation") Settling the Trustee's Claims Against John Humann, Vanessa Humann, and

Robert Humann (collectively, the "Defendants"); 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 Claims against Defendants 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, Motion and proposed Order, having been provided to: (i) the Office of the United States Trustee; (ii) Nicholas Cosmo, Debtors' former principal; (iii) Defendants; (iv) Defendants' counsel; (v) the appropriate taxing authorities; and (vi) all parties having filed a Notice of Appearance in this case (and copies of which 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 is otherwise sufficient; and it is further

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

ORDERED, that the settlement of the Claims against Defendants 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.

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re: _____x

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.: 10-08259 (DTE)

-against-

JOHN HUMANN, ROBERT HUMANN and
J & J SECURITIES INC.,

Defendants.

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

Plaintiff,

Adv. Pro. No.: 11-09127 (DTE)

-against-

JOHN HUMANN, and
VANESSA HUMANN,

Defendants.

_____x
**STIPULATION SETTLING THE
TRUSTEE'S CLAIMS AGAINST JOHN
HUMANN, VANESSA HUMANN AND ROBERT HUMANN**

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 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").

VII. 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 the Debtors to John Humann ("John"), Robert Humann ("Robert" and collectively with John, the "Humanns") and J&J Securities ("J&J", and together with the Humanns, the "Defendants") prior to the Filing Date.

VIII. On June 11, 2010, the Trustee commenced a first adversary proceeding against Defendants John, Robert, and J&J, assigned adversary proceeding number 10-08259 (DTE) by the filing of a complaint (the "Complaint"), wherein the Trustee asserted, *inter alia*, that (i) certain transfers totaling \$25,753.00 (the "John Transfers") made by the Debtors to John; and (ii) certain transfers totaling \$9,500 (the "Robert Transfers") are avoidable pursuant to 11 U.S.C. §§ 105(a), 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 "~~J&J Adversary Proceeding~~ ^{Direct Transfer Claims}").

IX. On July 14, 2010, John, Robert and J&J each interposed an answer to the

Complaint.¹

X. On June 6, 2011, the Trustee commenced a second adversary proceeding, assigned adversary proceeding number 11-09127 (DTE), against John and Vanessa Humann ("Vanessa"),² wherein the Trustee asserted that certain transfers, totaling \$15,342.10 made by Cyrek, Inc. to John and Vanessa Humann (the "John and Vanessa Transfers") were avoidable pursuant to 11 U.S.C. §§541, 542 and 550(a)(2) (the "John and Vanessa Humann Adversary Proceeding").

XI. Additionally, on June 6, 2011, the Trustee commenced a third adversary proceeding, assigned adversary proceeding number 11-09134 (DTE), against T.H.B. Equities, Inc., wherein the Trustee asserted that certain transfers, totaling \$359,569.70 made by Cyrek, Inc. to T.H.B. Equities, Inc., were avoidable pursuant to 11 U.S.C. §§ 541, 542 and 550 (the "T.H.B. Equities Adversary Proceeding"). T.H.B. Equities, Inc., failed to interpose an answer, and, on or about October 19, 2012, a default judgment was entered against T.H.B. Equities, Inc., in favor of the Trustee.

XII. Collectively the transfers to the Defendants at issue in the above-described adversary proceedings, as well as any transfers to the Humanns through J&J or T.H.B. (transfers at issue in the T.H.B. ^{Equities} Adversary Proceeding) are referred to herein as the "Transfers" and all claims and/or actions against the Humanns resulting from the Transfers are referred to herein as the "Trustee's Claims".

XIII. T.H.B. Equities, Inc. was owned by John and operated by John and Robert.

XIV. Thereafter, the parties engaged in informal discovery related to the Trustee's Claims, the defenses asserted by the Humanns, and the Trustee's ability to enforce a judgment against the John and Vanessa.

¹ John filed an answer on behalf of J&J Securities, Inc ("J&J"). Because J&J's did not appear through an attorney, its answer was stricken and default judgment was entered against J&J on January 14, 2013.

² Vanessa is hereinafter included in the definition of "Humanns."

XV. In the spirit of compromise and without any admission of liability, the Humanns have offered to collectively remit \$25,000.00 (the "Settlement Sum") to the Trustee in full and final settlement of the Trustee's Claims, apportioned as follows: (i) Robert will remit \$5,000.00; and (ii) John will remit \$20,000.00.

XVI. Based upon his review of all documentation related to all of the Transfers, the financial disclosures produced by John and supporting documents provided by the Humanns, 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:

Humanns' Obligation to Pay the Settlement Sum

1. This Stipulation (the "Stipulation") is subject to the approval of the United States Bankruptcy Court for the Eastern District of New York (the "Approval Order").
2. Within fourteen (14) days of the execution of this Stipulation, the Humanns will remit their respective portions of the Settlement Sum to "Kenneth P. Silverman, Esq., as Chapter 7 Trustee," by delivering a check to Trustee's counsel at SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York, 11753, Attn: Randy J. Schaefer, Esq.
3. The Humanns understand and agree that the Trustee will await payment of the Settlement Sum before filing and serving his application for entry of the Approval Order in adversary proceedings numbered 10-08259(DTE) and 11-09127(DTE).
4. The Settlement Sum shall be held by the Trustee in a segregated "Earnest Money" account until the Approval Order becomes final and non-appealable under 28 U.S.C. §158(c)(2) and Bankruptcy Rule 8002.

5. Upon the Approval Order becoming final and non-appealable, the fourteenth day after the date of the entry of the Approval Order, the Trustee will transfer the Settlement Sum from the segregated "Earnest Money" account into the Debtors' estate account. If the Bankruptcy Court denies the entry of the Approval Order, the Trustee will return the Settlement Sum to the Humanns' counsel without undue delay.

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

Releases

7. Upon the Approval Order becoming final and non-appealable under 28 U.S.C. §158(c)(2) and Bankruptcy Rule 8002, the Trustee and the estate release and forever discharge the Humanns, their 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. Based upon the Humanns' production of certain documentation, the foregoing release includes a waiver of the Trustee's right to pursue claims against the Humanns, under 11 U.S.C. §550.

8. Upon effectiveness of the release set forth in Paragraph 7 above, the Humanns release, discharge and waive any and all claims against the Debtors' Estate, the Trustee and the Trustee's agents, attorneys, assigns and successors-in-interest from any and all claims, claims for relief, demands, costs, expenses, damages, liabilities, and obligations of any nature.

No Admission

9. 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 the Humanns' part.

Miscellaneous

10. 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.

11. 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.

12. 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.

13. 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.

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

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

Dated: Jericho, New York
March 20, 2013

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

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

Mineola
Dated: ~~New York~~, New York
March 19, 2013

Brad M. Behar & Associates, PLLC
Attorneys for John Humann, Robert
Humann and Vanessa Humann

By: s/ Brad M. Behar
Brad M. Behar
94 Second Street
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Dated: West Babylon, New York
March 18, 2013

John Humann
Defendant

By: s/ John Humann
6 Clinton Place
West Babylon, New York 11704

Dated: Amityville, New York
March 18, 2013

Robert Humann
Defendant

By: s/ Robert Humann
88 Mole Place
Amityville, New York 11701

Dated: West Babylon, New York
March 18, 2013

Vanessa Humann
Defendant

By: s/ Vanessa Humann
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