

**SILVERMANACAMPORA LLP**  
Counsel to Kenneth P. Silverman, Esq.,  
Chapter 7 Trustee  
100 Jericho Quadrangle, Suite 300  
Jericho, New York 11753  
(516) 479-6300  
Jay S. Hellman, Esq.  
David J. Mahoney, Esq.

**Hearing Date: April 12, 2012**  
**Time: 9:30 a.m.**

**Objections Due: April 5, 2012**  
**Time: 5:00 p.m.**

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

-----X  
In re:

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

Debtors.

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

Plaintiff,

-against-

MIMMA GIORDANO,

Defendant.  
-----X

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

Adv. Pro. No.: 11-08121 (REG)

**NOTICE OF HEARING OF PROPOSED  
ORDER UNDER BANKRUPTCY RULE 9019(a) APPROVING A  
STIPULATION SETTLING THE TRUSTEE'S CLAIMS AGAINST MIMMA GIORDANO**

**PLEASE TAKE NOTICE**, that upon the application (the "Motion") of Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") for the substantively consolidated estate of Agape World, Inc., *et al.*, by his counsel, SilvermanAcampora LLP, the Trustee will move before the Honorable Robert E. Grossman, United States Bankruptcy Judge, at the United States Bankruptcy Court, United States Bankruptcy Judge, United States Bankruptcy Court, Courtroom 860, Eastern District of New York at Central Islip, 290 Federal Plaza, Central Islip, New York 11722 on the **12th day of April, 2012 at 9:30 a.m.**, or as soon thereafter as counsel

can be heard, for entry of an order granting the Trustee's Motion for an Order Approving the Stipulation of Settlement. A copy of the proposed Order is annexed hereto.

**PLEASE TAKE FURTHER NOTICE**, that objections, if any, to the relief requested in the Motion or the proposed Order must be (i) made in writing; (ii) electronically filed with the Bankruptcy Court; (iii) delivered to Chambers of the Honorable Robert E. Grossman, 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 **April 5, 2012**.

**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  
February 2, 2012

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

By: s/ David J. Mahoney  
Jay S. Hellman  
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.,  
Chapter 7 Trustee  
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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

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,

-against-

MIMMA GIORDANO,

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

Adv. Pro. No.: 11-08121 (REG)

**TRUSTEE'S APPLICATION UNDER  
BANKRUPTCY RULE 9019(a) SEEKING THE  
ENTRY OF AN ORDER APPROVING A STIPULATION  
SETTLING THE TRUSTEE'S CLAIMS AGAINST MIMMA GIORDANO**

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 Rule of Bankruptcy Procedure 9019 for entry of an Order (annexed hereto as **Exhibit A**) approving the proposed settlement of the Trustee's claims under 11 U.S.C. §§547, 548, 550 and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law against Mimma Giordano as memorialized in the Stipulation Settling the Trustee's Claims

Against Mimma Giordano (the “Stipulation”), which has been annexed hereto as **Exhibit B**. All parties are encouraged to review the annexed Stipulation in its entirety for the specific terms of the proposed settlement.

### **Background**

1. On February 5, 2009 (the “Petition Date”), an involuntary chapter 7 petition was filed by four petitioning creditors (“the Petitioning Creditors”) pursuant to 11 U.S.C. §303(b), against Agape World, Inc. (“AWI”), in the United States Bankruptcy Court for the Eastern District of New York.

2. On February 9, 2008, the Petitioning Creditors filed a motion to appoint an interim chapter 7 trustee under 11 U.S.C. §303(g).

3. On February 12, 2009, the Court granted the Petitioning Creditors’ motion and entered an order directing the United States Trustee’s Office to immediately appoint an interim chapter 7 trustee in the AWI case.

4. On February 12, 2009, Kenneth P. Silverman, Esq., was appointed the interim trustee in the AWI case, and has since duly qualified and is now the permanent Trustee in the Debtors’ substantively consolidated case.

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

6. On April 14, 2009, the Court issued an Order substantively consolidating AWI, Agape Merchant Advance LLC, Agape Community LLC, Agape Construction Management, LLC, Agape World Bridges LLC, and 114 Parkway Drive South LLC (collectively, “Agape” or the “Debtors”).

7. Thereafter, pursuant to an Order of this Court dated April 21, 2009 (Dkt. 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 Mimma Giordano (“Defendant”) received certain transfers totaling \$53,446.05 (the “Net Transfers”) made by the

Debtors to the Defendant are avoidable pursuant to 11 U.S.C. §§548, 550 and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law. Additionally, the Trustee asserted that certain transfers totaling \$14,215.80 (the "Preferential Transfers") were made by the Debtors to the Defendant within 90 days prior to the Filing Date are avoidable pursuant to 11 U.S.C. §§547 and 550 (the "Preferential Transfers").

9. On January 18, 2011, the Trustee commenced an adversary proceeding against the Defendant (the "Adversary Proceeding") by the filing and service of a summons and complaint under Adv. Pro. No. 11-08121 seeking to, *inter alia*, avoid the Transfers pursuant to 11 U.S.C. §§547, 548, 550 and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law and to recover the Preferential Transfers and the Net Transfers from Defendant pursuant to 11 U.S.C. §550(a) (the "Trustee's Claims").

10. The Trustee and the Defendant, through her counsel, engaged in settlement discussions in an effort to consensually resolve the Adversary Proceeding. It was determined that Defendant deposited \$45,000.00 with the Debtors, thereby reducing the total of the Net Transfers to \$18,446.05. Defendant also submitted certified financial disclosures to indicate her financial status. In order to avoid the costs, expenses and uncertainty of continued litigation, the parties have now agreed to resolve the Trustee's Claims upon the terms and conditions contained in the Stipulation.

11. Subsequently, during settlement negotiations, Defendant passed away and representatives of Defendant's estate authorized a settlement.

12. For all of the reasons set forth herein, the Trustee submits that accepting Defendant's offer to remit \$18,000.00 (the "Settlement Sum") in full and final settlement of the Trustee's Claims is a reasonable exercise of the Trustee's business judgment and is in the best interests of the Debtors' estate.

### **Settlement**

13. The Trustee has determined that settling this matter 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 prosecution of the Trustee's Claims and any resulting judgment enforcement efforts.

14. Indeed, after consultation with his retained professionals and in the exercise of his business judgment, the Trustee has determined that the payment of the Settlement Sum, which is approximately one hundred (100) percent of the Net Transfers received by Defendant, outweighs the potential net recovery to the estate if the Trustee elected to prosecute the Trustee's Claims through trial and enforce a resulting judgment against the Defendant.

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

#### **Basis for Relief Requested**

16. Federal Rule of Bankruptcy Procedure 9019(a), which governs the approval of compromises and settlement, provides:

(a) Compromise. On motion by the trustee and after notice and hearing, the court may approve a compromise or settlement. Notice shall be given to creditors, the United States trustee, the debtor, and indenture trustees as provided in Rule 2002 and to any other entity as the court may direct.

17. In approving a compromise and settlement, the Bankruptcy Court is required to make an "informed and independent judgment" as to whether the compromise and settlement is fair and equitable based on an:

[e]ducated estimate of the complexity, expense and likely duration of [any] litigation, the possible difficulties of collecting on any judgment which might be obtained, and all other factors relevant to a full and fair assessment of the wisdom of the proposed compromise. Basic to this process, in every instance, of course, is the need to compare the terms of the compromise with the likely rewards of litigation.

*Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424-425, *reh'g denied*, 391 U.S. 909 (1968). See *American Can Co. v. Herpel (In re Jackson Brewing Co.)*, 624 F.2d 605, 607 (5th Cir. 1980); *Chopin Assoc. v. Smith (In re Holywell Corp.)*, 93 B.R. 291, 294 (Bankr.S.D.Fla. 1988); *In re Arrow Air, Inc.*, 85 B.R. 886, 891

(Bankr. S.D. Fla. 1988); *In re Bell & Beckwith*, 77 B.R. 628, 611 (Bankr.N.D.Ohio), *aff'd*, 87 B.R. 472 (N.D.Ohio 1987); *Cf. Magill v. Springfield Marine Bank (In re Heissinger Resources Ltd.)*, 67 B.R. 378, 383 (C.D. Ill. 1986) ("the law favors compromise").

18. In making its determination, the Court should consider whether the proposed compromise is in the "best interest of the estate". *Depo v. Chase Lincoln First Bank, N.A. (In re Depo)*, 77 B.R. 381, 383 (N.D.N.Y. 1987), *aff'd*, 863 F.2d 45 (2d Cir. 1988). As stated in *Arrow Air*, the "approval of [a] proposed compromise and settlement is a matter of this Court's sound discretion." *Arrow Air*, 85 B.R. at 891. In passing upon a proposed settlement, "the bankruptcy court does not substitute its judgment for that of the Trustee [or debtor in possession]". *Depo*, 77 B.R. at 384 (citations omitted). The bankruptcy court is not required "to decide the numerous questions of law and fact raised by [objectors].... [R]ather [the Court should] canvass the issues and see whether the settlement falls below the lowest point in the range of reasonableness." *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir.), *cert denied*, 464 U.S. 822 (1983) (*quoting Newman v. Stein*, 464 F.2d 689, 693 (2d Cir.), *cert denied*, 409 U.S. 1039 (1972)). See *Holywell* 93 B.R. at 294. ("In order to exercise this discretion properly, the Court must consider all the relevant facts and evaluate whether the compromise suggested falls below the 'lowest point in the range of reasonableness'") (*quoting In re Teltronics Services, Inc.*, 762 F.2d 185, 189 (2d Cir. 1985)). In passing upon the reasonableness of a proposed compromise, the Court "may give weight to the opinions of the Trustee [or debtor in possession], the parties and their counsel." *Bell & Beckwith*, 77 B.R. at 512.

19. The factors to be considered by the Court in determining whether to approve a compromise or settlement include (a) probability of success in the litigation, with due consideration for the uncertainty in fact and law, (b) the complexity and likely duration of the litigation and any attendant expense, inconvenience and delay, and (c) all other factors bearing on the wisdom of the compromise. *Arrow Air*, 85 B.R. at 891 (*citing TMT Trailer Ferry*, 390 U.S.

at 424-25). See *Jackson Brewing Co.*, 624 F.2d at 507; *Holywell Corp.*, 93 B.R. at 294-95 (citations omitted).

20. By offering to voluntarily return the Settlement sum, Defendant has offered to remit approximately one hundred (100) percent of the Net Transfers received by Defendant, in satisfaction of the Trustee's Claims without causing the Debtors' estate to incur significant fees or expenses. 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**

21. The Trustee has served the Notice and Motion and proposed Order on: (i) the Office of the United States Trustee; (ii) Nicholas Cosmo, former principal of the Debtors, (iii) criminal counsel to Nicholas Cosmo, (iv) the appropriate taxing authorities, and (v) 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 Trustee's service complies with this Court's Order Establishing Noticing Procedures entered on July 8, 2009, and is otherwise sufficient.

22. 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  
February 2, 2012

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

By: s/ David J. Mahoney  
Jay S. Hellman  
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  
AT CENTRAL ISLIP

-----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,

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

Adv. Pro. No.: 11-08121 (REG)

-against-

MIMMA GIORDANO,

Defendant.

-----X

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

Upon the February 2, 2012 motion (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 Mimma Giordano (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. §§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 having been had; 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) criminal counsel to Nicholas Cosmo, (iv) the appropriate taxing authorities, and (v) 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 settlement of the Trustee's Claims against Defendant as memorialized in the Stipulation is approved; and it is further

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

# **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.: 11-08121 (REG)

-against-

MIMMA GIORDANO,

Defendant.  
-----x

**STIPULATION SETTLING THE  
TRUSTEE'S CLAIMS AGAINST MIMMA GIORDANO**

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 Mimma Giordano ("Defendant") prior to the Filing Date.

VIII. On January 18, 2011, the Trustee commenced this adversary proceeding against Defendant by the filing of a complaint, wherein the Trustee asserted that certain transfers totaling \$53,446.05 (the "Net Transfers") made by the Debtors to the Defendant are avoidable pursuant to 11 U.S.C. §§548, 550 and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law. Additionally, the Trustee asserted that certain transfers totaling \$14,215.80 (the "Preferential Transfers") were made by the Debtors to the Defendant within 90 days prior to the Filing Date are avoidable pursuant to 11 U.S.C. §§547 and 550 (the "Preferential Transfers" together with the Net Transfers collectively, the "Transfers")(the "Trustee's Claims").

IX. Thereafter, Defendant retained her undersigned counsel to defend against the Trustee's Claims.

X. The parties engaged in informal discovery related to the Trustee's Claims and the defenses asserted by Defendant whereby it was determined that Defendant deposited \$45,000.00 with the Debtors, thereby reducing the total of the Net Transfers to \$18,446.05.

XI. Subsequently, Defendant passed away.

XII. In the spirit of compromise and without any admission of liability, representatives of Defendant's estate have offered to remit the sum of \$18,000.00 (the "Settlement Sum") to the Trustee in full and final settlement of the Trustee's Claims.

XIII. Based upon his review of all documentation related to the Transfers and his investigation of all attendant factors, the Trustee has, in his business judgment, agreed to settle the Trustee's Claims upon the following terms and conditions, which the Trustee believes are fair and reasonable, especially in light of the costs and uncertainty associated with litigation.

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

**Defendant's Obligation to Pay the Settlement Sum**

1. This Stipulation (the "Stipulation") is subject to the approval of the United States Bankruptcy Court for the Eastern District of New York (the "Approval Order").
2. Upon execution of the Stipulation, Defendant will remit 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, Attention: Wade C. Wilkinson, Esq.
3. The Settlement Sum shall be held in the escrow account of the Trustee's counsel until the Approval Order becomes final and non-appealable under 28 U.S.C. §158(c)(2) and Bankruptcy Rule 8002.
4. Upon the Approval Order becoming final and non-appealable, the fourteenth day after the date of the entry of the Approval Order, Trustee's counsel will transfer the Settlement Sum to the Trustee to be deposited into the Debtors' estate account. If the Bankruptcy Court denies the entry of the Approval Order, Trustee's counsel will return the Settlement Sum to Defendant's counsel without undue delay.



5. 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**

6. Upon the entry of the Approval Order, and the Trustee's receipt and clearance of the Settlement Sum, the Trustee and the estate release and forever discharge Defendant and Defendant's estate, their affiliated entities, agents, representatives, attorneys, 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. For purposes of clarification, nothing contained herein shall be construed to be a release by the Trustee of any claims that the Trustee may have or subsequently discover under 11 U.S.C. §550(a)(2) and the Trustee is specifically not releasing any claims under 11 U.S.C. §550(a)(2).

7. Upon the entry of the Approval Order, Defendant and Defendant's estate 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, claims for relief, demands, costs, expenses, damages, liabilities, and obligations of any nature.

8. Nothing contained in this Stipulation can be construed as a waiver of the Trustee's right to object to any proof of claim.

**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 Defendant's part. For clarification, this paragraph is not intended and shall not be deemed to affect Defendant's obligation to make timely payment of the Settlement Sum or adversely affect the Trustee's rights and remedies under paragraph 2 in the event that Defendant fails to make timely payment of the Settlement Sum.

**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.

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

Dated: Jericho, New York  
December \_\_, 2011

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

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

Dated: Ashland, Oregon  
December 23, 2011

**JOY ELOHIM**  
As Executrix of Defendant's Estate

By: s/ Joy Elohim  
Joy Elohim  
321 Clay Street  
Space 106  
Ashland, Oregon 97520

Dated: New York, New York  
~~December \_\_, 2011~~  
January 6, 2012

**LAX & NEVILLE LLP**  
Attorneys for Defendant

By: s/ Gabrielle J. Pretto  
Gabrielle J. Pretto  
1412 Broadway 1450 Broadway  
~~Suite 1407~~ 35th Floor  
New York, New York 10018  
(212) 696-1999