

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

**Hearing Date: December 19, 2013**  
**Time: 2:00 p.m.**

**Objections Due: December 12, 2013**  
**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-

COSMO CIMINO,

Defendant.  
-----X

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

Adv. Pro. No.: 10-08955 (DTE)

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

**PLEASE TAKE NOTICE**, that upon the motion (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, 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 **December 19, 2013 at 2:00 p.m.**, or as soon thereafter as counsel can be heard, seeking entry of an Order under Bankruptcy Rule 9019(a) Approving the Stipulation Settling the

Trustee's Claims against Cosmo Cimino. A copy of the proposed Order is attached to the Motion as **Exhibit A**.

**PLEASE TAKE FURTHER NOTICE**, that objections, if any, to the relief requested in the Motion or the proposed Order must be (i) made in writing; (ii) electronically filed with the Bankruptcy Court; (iii) delivered to Chambers of the Honorable 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 **December 12, 2013 at 5:00 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  
November 22, 2013

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

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

**SILVERMANACAMPORA LLP**  
Counsel to Kenneth P. Silverman, Esq.,  
Chapter 7 Trustee  
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UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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In re:

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

AGAPE WORLD, INC.,  
AGAPE MERCHANT ADVANCE LLC,  
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CONSTRUCTION MANAGEMENT LLC,  
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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.: 10-08955 (DTE)

-against-

COSMO CIMINO,

Defendant.

-----X

**TRUSTEE'S MOTION UNDER BANKRUPTCY RULE 9019(a)  
SEEKING ENTRY OF A PROPOSED ORDER APPROVING A  
STIPULATION SETTLING THE TRUSTEE'S CLAIMS AGAINST COSMO CIMINO**

Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") of the substantively consolidated estate of Agape World, Inc., *et al.*, by his attorneys SilvermanAcampora LLP, respectfully submits this motion (the "Motion") under 11 U.S.C. §105 and Federal Rule of Bankruptcy Procedure 9019(a) for entry of a proposed order (the "Proposed Order," annexed hereto as **Exhibit A**) approving the proposed settlement of the Trustee's claims under 11 U.S.C. §§105, 502, 544, 548, 550 and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law against Cosmo Cimino (the "Defendant"), as

memorialized in the Stipulation Settling the Trustee's Claims Against Cosmo Cimino, (the "Stipulation," 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, an involuntary chapter 7 petition was filed by four 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, 2009, 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, including a detailed analysis of the extent and validity of certain transfers made by the Debtors to Defendant prior to the Filing Date.

8. On May 15, 2009, Defendant filed a Proof of Claim against the Debtors' estate, assigned claim number 2024 ("Claim No. 2024"), in the amount of One Hundred Thirty Thousand and 00/100 Dollars (\$130,000.00).

9. On or about December 12, 2010, the Trustee commenced an adversary proceeding against Defendant (the "Adversary Proceeding") by filing a complaint asserting that certain transfers totaling One Hundred Fifty-Three Thousand Four Hundred Fifty and 00/100 Dollars (\$153,450.00) (the "Net Transfers"), made by the Debtors to Defendant are avoidable pursuant to 11 U.S.C. §§105, 502, 544, 548, 550, and 551, New York Debtor and Creditor Law §§273, 274, 275, 276, and 276-a, and New York common law (the "Trustee's Claims").

10. The parties to the Adversary Proceeding have engaged in discovery related to the Trustee's Claims and the defenses asserted by Defendant. Defendant demonstrated to the Trustee certain previously unaccounted deposits into the Debtors' estate totaling One Hundred Thirty-Five Thousand and 00/100 Dollars (\$135,000.00), which reduce Defendant's net profit to Eighteen Thousand Four Hundred Fifty and 00/100 Dollars (\$18,450.00) (the "True Net Transfers").

11. In order to avoid the costs, expenses and uncertainty of continued litigation, the parties have now agreed to resolve the Trustee's Claims against Defendant upon the terms and conditions contained in the Stipulation.

### **Settlement**

12. Defendant has offered, in full and final settlement of the Trustee's Claims, to pay the sum of Eleven Thousand and 00/100 Dollars (\$11,000.00) (the "Settlement Sum") to the Trustee, and to waive Claim No. 2024 (the "Claim Waiver").

13. Based upon his review of all documentation related to the True Net Transfers and his consideration of all attendant factors, and in consultation with his retained professionals, the Trustee has determined that settling this matter for the Settlement Sum and the Claim Waiver 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 efforts.

14. In light of the foregoing and mindful of the costs and risks of litigating the Trustee's Claims and enforcing judgments, the Trustee has agreed to accept the Settlement Sum and the Claim Waiver.

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

15. 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).

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

[e]ducated estimate of the complexity, expense, and likely duration of such litigation, the possible difficulties of collecting on any judgment which might be obtained, and all other factors relevant to a full and fair assessment of the wisdom of the proposed compromise. Basic to this process in every instance, of course, is the need to compare the terms of the compromise with the likely rewards of litigation.<sup>1</sup>

17. 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>2</sup> As stated in

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<sup>1</sup> *In re Iridium Operating LLC*, 478 F.3d 452, 462 n.15 (2d Cir. 2007) (quoting *Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424-425, reh'g denied, 391 U.S. 909 (1968)). See *In re Arrow Air, Inc.*, 85 B.R. 886, 891 (Bankr. S.D. Fla. 1988); *In re Bell & Beckwith*, 77 B.R. 606, 611 (Bankr. N.D. Ohio), *aff'd*, 87 B.R. 472 (N.D. Ohio 1987); *Cf. Magill v. Springfield Marine Bank (In re Heissinger Resources Ltd.)*, 67 B.R. 378, 383 (C.D. Ill. 1986) ("the law favors compromise").

<sup>2</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).

*Arrow Air*, the “approval of [a] proposed compromise and settlement is a matter of this Court’s sound discretion.”<sup>3</sup> In passing upon a proposed settlement, “the bankruptcy court does not substitute its judgment for that of the trustee.”<sup>4</sup> The bankruptcy court is not required “to decide the numerous questions of law and fact raised by [objectors] . . . [R]ather [the Court should] canvass the issues and see whether the settlement falls below the lowest point in the range of reasonableness.”<sup>5</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.”

18. The Second Circuit in *In re Iridium Operating LLC*<sup>6</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

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<sup>3</sup> *Arrow Air*, supra, 85.B.R. at 891.

<sup>4</sup> *In re Depo*, 77 B.R. at 384 (citations omitted).

<sup>5</sup> *Bell & Beckwith*, 77 B.R. at 612; see also *In re Handler*, 386 B.R. at 421.

<sup>6</sup> 478 F.3d 452, 462 (2d Cir. 2007).

length bargaining.<sup>7</sup>

19. The Settlement Sum represents a guaranteed recovery of sixty percent (60%) of Defendant's potential liability for the True Net Transfers.

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

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

22. The parties to the Stipulation are represented by competent and experienced counsel.

23. The Trustee submits that considering the costs and uncertainties associated with trial, and the resulting litigation that would be necessary to enforce the judgment against Defendant, 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**

24. The Trustee has served the Notice of Motion, proposed Order, and Motion in support (with Exhibits) upon: (i) the Office of the United States Trustee; (ii) Nicholas Cosmo, Debtors' former principal; (iii) Defendant; (iv) Defendant's counsel; (v) the Internal Revenue Service and other governmental agencies to the extent required by the Bankruptcy Rules and the Local Rules; and (vi) all parties having filed a Notice of Appearance in this case, and copies have been posted on the Trustee's website located at [www.agapeworldbankruptcy.com](http://www.agapeworldbankruptcy.com). The Trustee respectfully submits that the proposed service complies with this Court's Order Establishing Noticing Procedures entered on July 8, 2009 and is otherwise sufficient.

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<sup>7</sup> See *In re Iridium Operating LLC*, 478 F.3d at 462; See also *In re Handler*, 386 B.R. at 421.



25. No previous application for the relief requested herein has been made to this or any other Court.

**WHEREFORE**, the Trustee respectfully requests that the Court grant this Motion approving the Stipulation and grant such other further and different relief as the Court deems just and proper.

Dated: Jericho, New York  
November 22, 2013

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

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

# **EXHIBIT A**

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
In re:

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

Debtors.

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

Plaintiff,

-against-

COSMO CIMINO,

Defendant.  
-----X

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

Adv. Pro. No.: 10-08955 (DTE)

**ORDER UNDER FEDERAL RULE OF BANKRUPTCY  
PROCEDURE 9019(a) APPROVING THE STIPULATION  
SETTLING THE TRUSTEE'S CLAIMS AGAINST COSMO CIMINO**

Upon the Notice of Motion (the "Notice"), dated November 22, 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 Cosmo Cimino (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 settling the Trustee's claims arising under 11 U.S.C. §§105, 502, 544, 548, 550 and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law is reasonable and in the best interest of the Debtors' estate; and sufficient cause having been shown therefor; and after due deliberation and consideration; and it appearing that sufficient notice of the Motion and proposed Order has been given; and it

appearing that good and sufficient cause exists for granting the Motion and proposed Order; and no additional notice being necessary or required:

**NOW, THEREFORE**, upon the Trustee's Notice and Motion and pursuant to Federal Rule of Bankruptcy Procedure 9019(a) and other applicable law, it is hereby

**ORDERED**, that service of the Notice and Motion and proposed Order, having been provided to: (i) the Office of the United States Trustee; (ii) Nicholas Cosmo, Debtors' former principal; (iii) Defendant; (iv) Defendant's counsel; (v) the Internal Revenue Service and other governmental agencies to the extent required by the Bankruptcy Rules and the Local Rules; and (vi) all parties having filed a Notice of Appearance in this case, and copies have been posted on the Trustee's website located at [www.agapeworldbankruptcy.com](http://www.agapeworldbankruptcy.com) complies with this Court's Order Establishing Noticing Procedures entered on July 8, 2009 and is otherwise sufficient; and it is further

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

**ORDERED**, that the settlement of the Trustee's claims against Defendant as memorialized in the Stipulation is approved, and it is further

**ORDERED**, that Claim No. 2024, filed by Cosmo Cimino in the amount of One Hundred Thirty Thousand and 00/100 Dollars (\$130,000.00), is hereby waived as provided in the Stipulation; 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.

**SO ORDERED:**

# **EXHIBIT B**

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. 10-08955 (DTE)

-against-

COSMO CIMINO,

Defendant.  
-----x

**STIPULATION SETTLING THE  
TRUSTEE'S CLAIMS AGAINST COSMO CIMINO**

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. On May 15, 2009, Cosmo Cimino (the "Defendant") filed a Proof of Claim against the Debtors' estate, assigned claim number 2024 ("Claim No. 2024"), in the amount of One Hundred Thirty Thousand and 00/100 Dollars (\$130,000.00).

VIII. 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 the Defendant prior to the Filing Date.

IX. On December 12, 2010 the Trustee commenced this adversary proceeding against Defendant by filing a complaint (the "Complaint"), alleging that certain transfers, net of deposits into the Debtors, totaling One Hundred Fifty-Three Thousand Four Hundred Fifty and 00/100 Dollars (\$153,450.00) (the "Net Transfers"), made by the Debtors to Defendant are avoidable pursuant to 11 U.S.C. §§544, 548, 550 and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law (the "Trustee's Claims").

X. On January 24, 2011, Defendant filed an answer to the Complaint.

XI. Thereafter, Defendant's counsel contacted the Trustee to engage in informal discovery related to the Trustee's Claims and defenses asserted by Defendant. Defendant has demonstrated to the Trustee certain previously unaccounted deposits into the Debtors' estate totaling \$135,000.00, which reduce Defendant's net profit to Eighteen Thousand Four Hundred Fifty and 00/100 Dollars (\$18,450.00) (the "True Net Transfers").

XII. In the spirit of compromise and without any admission of liability, Defendant has offered to remit the settlement sum of Eleven Thousand and 00/100 Dollars (\$11,000.00) (the "Settlement Sum"), and to waive Claim No. 2024, in full and final settlement of the Trustee's



Claims.

XIII. Based upon the Trustee's review of all documentation related to the True Net Transfers, 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. Defendant will pay the Settlement Sum by delivering checks made payable to "Kenneth P. Silverman, Esq., as Chapter 7 Trustee," to the Trustee's counsel at SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York, 11753, Attn: Gayle S. Gerson, Esq. The Trustee has authorized Defendant to pay the Settlement Sum in three (3) installments (each, an "Installment" and collectively, the "Installments"), as follows: (1) the first Installment, in the amount of \$6,000.00, is due upon execution of this Stipulation; (2) the second Installment, in the amount of \$2,500.00, is due on or before December 1, 2013; and (3) the third and final Installment, in the amount of \$2,500.00, is due on or before January 1, 2014. Nothing contained herein shall preclude or penalize Defendant from pre-paying any Installment or any portion of any Installment.

3. If Defendant fails to make timely payment of any Installment of the Settlement Sum in accordance with paragraph 2 above, or if Defendant's payment is dishonored for any reason whatsoever and Defendant does not cure such default within ten (10) business days after written notice is sent by Federal Express or other reputable overnight courier to Defendant and Defendant's counsel at the addresses set forth herein, then the Trustee shall be entitled to

move before the Bankruptcy Court, without further notice, upon the affidavit by the Trustee attesting to the default, (a) for the entry of a judgment against Defendant for Eighteen Thousand Four Hundred Fifty and 00/100 Dollars (\$18,450.00), together with costs, less any sums previously paid as provided herein, and (b) for any further relief necessary to enforce the Trustee's rights under this Stipulation. Written notice of default shall be sent to (i) Defendant at 511 Beach 139<sup>th</sup> Street, Belle Harbor, New York 11694; and (ii) Defendant's counsel at Ruiz Law Group P.C., 37-53 90<sup>th</sup> Street, Suite 12, Jackson Heights, New York 11372, Attn: Frances Ruiz, Esq.

4. All Installments of 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, on the fourteenth day after the date of the entry of the Approval Order, the Trustee will transfer all Installments of the Settlement Sum being held in the segregated "Earnest Money" account into the Debtors' estate account. All subsequent Installments received by Defendant will be deposited directly into the Debtors' estate account. If the Bankruptcy Court denies the entry of the Approval Order, the Trustee will return the Settlement Sum to Defendant's counsel without undue delay.

6. Upon the Approval Order becoming final and non-appealable, Defendant agrees to waive and withdraw Claim No. 2024, with prejudice, pursuant to a notice of waiver and withdrawal, annexed hereto as **Exhibit 1** (the "Notice of Withdrawal"). Defendant authorizes Plaintiff, upon entry of the Approval Order, to file this Stipulation and the Notice of Withdrawal with the Bankruptcy Court to effect the withdrawal of Claim No. 2024 with prejudice.

7. 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**

8. Upon the entry of the Approval Order, and the Trustee's receipt and clearance of

all Installments of the Settlement Sum, the Trustee and the estate release and forever discharge Defendant, his affiliated entities, agents, representatives, 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. 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).

9. Upon the entry of the Approval Order, Defendant releases, discharges and waives 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.

10. As additional consideration for settling the Trustee's Claims, upon the entry of the Approval Order, Defendant agrees to: (i) waive his right to receive a distribution on any scheduled claim potentially listed on Schedule F of the Debtors' petitions; (ii) waive his right to file a proof of claim under Bankruptcy Code §502(h) in connection with the Settlement Sum; and (iii) waive his right to any further distribution from the Debtors' estate.

**No Admission of Criminal or Civil Liability**

11. 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 of any criminal or civil liability 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 each Installment of the Settlement Sum or adversely affect the Trustee's rights and remedies in the event that Defendant fails to make timely payment of each Installment of the Settlement Sum.

**Miscellaneous**

12. 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.

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. 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.

15. 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.

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

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

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

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

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

Dated: Central Islip, New York  
October 24, 2013

**RUIZ LAW GROUP P.C.**  
Attorneys for Defendant Cosmo Cimino

By: s/ Frances Ruiz  
Frances Ruiz, Esq.  
37-53 90<sup>th</sup> Street, Suite 12  
Jackson Heights, New York 11372  
(718) 505-3400

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

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

**NOTICE OF WAIVER AND WITHDRAWAL OF CLAIM NO. 2024,  
IN THE AMOUNT OF \$130,000.00, FILED BY COSMO CIMINO**

Cosmo Cimino hereby waives and withdraws, with prejudice, his general unsecured claim, assigned Claim No. 2024, filed on May 15, 2009 in the amount of One Hundred Thirty Thousand and 00/100 Dollars (\$130,000.00), and any subsequent amendments thereto. SilvermanAcampora LLP, counsel to Kenneth P. Silverman, Esq., the Chapter 7 Trustee of the substantively consolidated cases of Agape World, Inc., *et al.*, is authorized to file this Notice with the Bankruptcy Court to effect the withdrawal of Claim No. 2024 with prejudice. A copy of Claim No. 2024 is attached hereto.

Dated: October \_\_, 2013

By: s/ Cosmo Cimino  
Cosmo Cimino  
511 Beach 139<sup>th</sup> Street  
Belle Harbor, New York 11694  
(718) 634-3313

01000973



<b>UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF NEW YORK</b>	<b>PROOF OF CLAIM CHAPTER 7</b>
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Name of Debtor <b>Agape World Inc</b>	Case Number <b>09-70660 (DTE)</b>
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NOTE This form should not be used to make a claim for an administrative expense arising after the commencement of the case, but may be used for purposes of asserting a claim under 11 U.S.C. 503(b)(9) (see Column #5). A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.


Name of Creditor (the person or other entity to whom the debtor owes money or property)	<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim
Name and address where notices should be sent <b>CIMINO, COSMO 511 BEACH 139TH ST BELLE HARBOR, NY 11694</b>	Court Claim Number _____ (If known)
Telephone number _____	Filed on _____

**FILED - 02024  
USBC - EASTERN DISTRICT OF NEW YORK  
AGAPE WORLD INC.  
09-70660 (DTE)**

Name and address where payment should be sent (if different from above)	<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars
Telephone number _____	<input type="checkbox"/> Check this box if you are the debtor or trustee in this case

<b>1. Amount of Claim as of Date Case Filed:</b> \$ <u>130,000.00</u> If all or part of your claim is secured, complete item 4 below, however, if all of your claim is unsecured, do not complete item 4 If all or part of your claim is entitled to priority, complete item 5 <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges	<b>5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a).</b> If any portion of your claim falls in one of the following categories, check the box and state the amount Specify the priority of the claim <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B) <input type="checkbox"/> Unsecured claims allowed under § 502(f) (§507 (a)(1)(A)(3)) <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. §507 (a)(4) <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5) <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. §507 (a)(7) <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8) <input type="checkbox"/> Value of goods received by the Debtor within 20 days before the date of commencement of the case - 11 U.S.C. § 503(b)(9) (§507(a)(2)) <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507 (a)( ) Amount entitled to priority \$ _____
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<b>2. Basis for Claim.</b> _____ (See instruction #2 on reverse side)	
<b>3. Last four digits of any number by which creditor identifies debtor:</b> _____	
<b>3a Debtor may have scheduled account as</b> _____ (See instruction #3a on reverse side)	

<b>4. Secured Claim</b> (See instruction #4 on reverse side) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information  Nature of property or right of setoff <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe _____  Value of Property \$ _____ Annual Interest Rate % _____  Amount of arrearage and other charges as of time case filed included in secured claim, if any \$ _____ Basis for perfection, _____  Amount of Secured Claim \$ _____ Amount Unsecured \$ _____	
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<b>6 Credits</b> The amount of all payments on this claim has been credited for the purpose of making this proof of claim  <b>7 Documents</b> Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary (See definition of "redacted" on reverse side)	*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment
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<b>DO NOT SEND ORIGINAL DOCUMENTS ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING</b>  If the documents are not available, please explain _____	<b>FOR COURT USE ONLY</b>
Date <u>5/11/09</u> Signature The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.  