

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: August 20, 2013
Time: 2:00 p.m.

Objections Due: August 13, 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-

DAVID VASQUEZ,

Defendant.
-----X

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

Adv. Pro. No.: 10-08962 (DTE)

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

PLEASE TAKE NOTICE, that upon the motion (the "Motion") dated July 25, 2013, 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 **August 20, 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 David Vasquez. A copy of the proposed Order is attached to the Motion as **Exhibit 1**.

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 **August 13, 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
July 25, 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
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SILVERMANACAMPORA LLP
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Chapter 7 Trustee
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Anthony C. Acampora, Esq.
David J. Mahoney, Esq.

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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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.: 10-08962 (DTE)

-against-

DAVID VASQUEZ,

Defendant.

-----X

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

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 Rules of Bankruptcy Procedure 9019(a) for entry of an Order (attached as **Exhibit 1**) approving the settlement of the Trustee's claims against David Vasquez (the "Defendant") as memorialized in the Stipulation Settling the Trustee's claims against David Vasquez (the "Stipulation"), which is

attached as **Exhibit 2**. All parties are encouraged to review the Stipulation in its entirety for the specific terms of the 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. On or about May 7, 2009, Defendant filed a general unsecured claim, assigned claim number 1640, in the amount of \$136,625.00 (the "Claim 1640").

8. Thereafter, pursuant to an Order of this Court dated April 21, 2009 (Docket No. 106), the Trustee retained Navigant Consulting Inc. ("Navigant") to, among other things, conduct a forensic analysis of Agape's books and records.

9. Based upon Navigant's analysis, the Trustee determined that Defendant received certain transfers, net of deposits into Agape, totaling One Hundred Thirty-Three Thousand Six Hundred Fifty-Two and 00/100 (\$133,652.00) Dollars (the "Transfers") from the Debtors prior to the Filing Date.

10. On December 12, 2010, the Trustee commenced this adversary proceeding against Defendant by the filing of a complaint (Adv. Pro. No. 10-08962) (the "Adversary Proceeding"), asserting that the Transfers 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").

11. On January 15, 2013, the Trustee moved for a default judgment against Defendant for his failure to answer or otherwise respond in the Adversary Proceeding (the "Default Motion").

12. Thereafter, Defendant's counsel contacted the Trustee in an effort to resolve the Trustee's Claims and the Default Motion.

13. Thereafter, the Parties engaged in informal discovery related to the Trustee's Claims and the defenses asserted by Defendant, whereby Defendant demonstrated previously unaccounted for deposits made by Defendant. Accordingly, Defendant's net transfer liability was concomitantly reduced to \$69,827.00 (the "Net Transfers").

14. Defendant has offered to pay \$34,900.00 (the "Settlement Sum") to the Trustee and arrange for the waiver of Claim 1640 in full and final settlement of the Trustee's Claims.¹

15. Based upon Defendant's defenses to the Trustee's Claims and the Trustee's review of all documentation related to the Net Transfers and his investigation of all attendant factors, including Claim 1640, the Trustee has, in his business judgment, agreed to settle the Trustee's Claims.

¹ The Settlement Sum has been received by the Trustee and is in the "Estates Earnest Monies" account, pending the Court approval of the Settlement.

16. For all the reasons set forth herein, the Trustee submits that accepting Defendant's offer to remit the Settlement Sum and arrange for the waiver of Claim 1640 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 interest of the Debtors' estate.

Settlement

17. The Trustee has determined that settling this matter for the Settlement Sum and a waiver of Claim 1640 is the most economical and efficient way to realize a meaningful recovery for the creditor's benefit without incurring additional legal fees and the risks inherent with prosecuting the Trustee's Claims and collecting on any resulting judgment efforts.

Basis for Relief Requested

18. Rule 9019(a) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") governs the approval of compromises and settlements, and provides as follows:

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

FED. R. BANKR. P. 9019(a).

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

[e]ducated estimate of the complexity, expense, and likely duration of such litigation, the possible difficulties of collecting on any judgment which might be obtained, and all other factors relevant to a full and fair assessment of the wisdom of the proposed compromise. Basic to this process in every instance, of course, is the need to compare the terms of the compromise with the likely rewards of litigation.²

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

20. In making its determination on the "propriety of the settlement", the Court should consider whether the proposed settlement is in the "best interest of the estate."³ As stated in *Arrow Air*, supra, the "approval of [a] proposed compromise and settlement is a matter of this Court's sound discretion."⁴ 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."⁵ 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."

21. The Second Circuit in *In re Iridium Operating LLC*⁶ 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;

³ *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).

⁴ *Arrow Air*, supra, 85.B.R. at 891.

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

⁶ 478 F.3d 452, 462 (2d Cir. 2007).

- 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.⁷

22. The Settlement Sum represents a guaranteed recovery of approximately 50% of the Net Transfers for which the Trustee believes Defendant may be liable in satisfaction of the Trustee's Claims.

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

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

25. The Parties are represented by competent and experienced counsel.

26. 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" of the Debtors' estate in excess of the Settlement Sum and the waiver of Claim 1640. 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

27. 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

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

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.

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

Dated: Jericho, New York
July 25, 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 1

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-

DAVID VASQUEZ,

Defendant.
-----X

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

Adv. Pro. No.: 10-08962 (DTE)

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

Upon the Notice of Motion (the "Notice"), dated July 25, 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 David Vasquez (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, and 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 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 pursuant to the Stipulation, any and all claims, of whatever nature, which the Defendant has or may have against the Debtors' estate are hereby, and forever waived, released and discharged, including, but not limited to, the general unsecured claim filed on or about May 7, 2009, by David Vasquez, in the amount of \$136,625.00, and designated on the Debtors' claims register as claim number 1640, and any amendments thereto (the "Claim 1640"), which Claim 1640, as designated on the Debtors' claims register, which is hereby expunged in its entirety, and it is further

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

EXHIBIT 2

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.

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

Plaintiff,

-against-

DAVID VASQUEZ,

Defendant.
-----X

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

Adv. Pro. No.: 10-08962 (DTE)

**STIPULATION SETTLING THE
TRUSTEE'S CLAIMS AGAINST DAVID VASQUEZ**

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.

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

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.

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.

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

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").

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 David Vasquez ("Defendant") prior to the Filing Date.

On December 12, 2010, the Trustee commenced this adversary proceeding against Defendant by the filing of a complaint, wherein the Trustee asserted that certain transfers totaling One Hundred Thirty-Three Thousand Six Hundred Fifty-Two and 00/100 Dollars (\$133,652.00) (the "Net Transfers") made by the Debtors to 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 (the "Trustee's Claims").

Defendant failed to file or serve a responsive pleading.

On January 15, 2013, the Trustee moved for an Order under Federal Rule of Bankruptcy Procedure 7055 Directing Entry of a Default Judgment against Defendant ("Motion for Default Judgment").

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

The parties engaged in informal discovery related to the Trustee's Claims, whereby Defendant demonstrated that he made additional, as-yet unattributed deposits with the Debtors, reducing the total of the Net Transfers to Sixty-Nine Thousand Eight Hundred Twenty-Seven and 00/100 Dollars (\$69,827.00).

In the spirit of compromise and without any admission of liability, Defendant has offered

to remit the sum of Thirty-Four Thousand Nine Hundred and 00/100 Dollars (\$34,900.00) (the "Settlement Sum") to the Trustee in full and final settlement of the Trustee's Claims.

Based upon his review of all documentation related to the Net 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

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").

On or before July 24, 2013, Defendant will remit the Settlement Sum to "Kenneth P. Silverman, Esq., as chapter 7 Trustee," by delivering a check to the Trustee's counsel at Silverman Acampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York, 11753, Attention: Gayle S. Gerson, Esq.

If Defendant fails to make timely payment 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 five (5) business days after written notice 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 and upon the affidavit by the Trustee attesting to the default (a) for the entry of a judgment against Defendant for Sixty-Nine Thousand Eight Hundred Twenty-Seven and 00/100 Dollars (\$69,827.00), plus costs, less any sums previously paid as provided herein, and (b) for any further relief necessary to enforce his rights under this Stipulation.

Written notice of default shall be sent by Federal Express or other reputable overnight courier to (i) Defendant at 237 East 54th Street, Apartment 3B, New York, New York 10022, and (ii) Defendant's counsel, Oren Sibony, Esq., at 56 West 11th Street, Suite 7FW, New York, New York 10011.

The Settlement Sum shall be held in the Trustee's segregated "Earnest Monies" account until the Approval Order becomes final and non-appealable under 28 U.S.C. §158(c)(2) and Bankruptcy Rule 8002.

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 from the "Earnest Monies" account 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.

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

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, his 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).

Upon the entry of the Approval Order, Defendant 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.

Defendant consents to the expunging of Proof of Claim No. 1640, filed on May 7, 2009, in the name of David Vasquez, in the amount of \$136,625.00, and any amendment thereto.

No Admission

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 3 in the event that Defendant fails to make timely payment of the Settlement Sum.

Miscellaneous

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.

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.

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.



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

The Trustee and Defendant are each responsible for their own costs and attorneys' fees

incurred in connection with this proceeding.

Dated: Jericho, New York
July __, 2013

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

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

Dated: New York, New York
July 18, 2013

DAVID VASQUEZ
Defendant and Claimant for
Proof of Claim No. 1640

By: s/ David Vasquez
David Vasquez
237 East 54th Street, Apartment 3B
New York, New York 10022

Dated: New York, New York
July 19, 2013

OREN SIBONY, ESQ.
Attorney for Defendant

By: s/ Oren Sibony
Oren Sibony, Esq.
56 West 11th Street, Suite 7FW
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New York, New York 10011
(646) 649-3867