

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

Hearing Date: June 18, 2013
Time: 10:00 a.m.

Objections Due: June 11, 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-

MARY BOYLE,

Defendant.
-----X

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

Adv. Pro. No.: 10-08376 (DTE)

**NOTICE OF MOTION FOR AN ORDER (I) REOPENING
THE ADVERSARY PROCEEDING; (II) SEEKING THE APPROVAL
UNDER BANKRUPTCY RULE 9019(a) OF THE STIPULATION PROVIDING
FOR THE CONDITIONAL SATISFACTION OF THE TRUSTEE'S JUDGMENT
AGAINST MARY BOYLE; AND (III) RE-CLOSING THE ADVERSARY PROCEEDING**

PLEASE TAKE NOTICE, that upon the Motion dated April 23, 2013 (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 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 **June 18, 2013 at 10:00 a.m.**, for an order (I) reopening

the adversary proceeding; (II) seeking the approval under Bankruptcy Rule 9019(a) of the Stipulation Providing for the Conditional Satisfaction of Trustee's Judgment Against Mary Boyle; and (III) re-closing the adversary proceeding. A copy of the proposed Order is annexed hereto.

PLEASE TAKE FURTHER NOTICE, that objections, if any, to the relief requested in the Motion must be (i) made in writing; (ii) electronically filed with the Bankruptcy Court; (iii) delivered to Chambers of the Honorable Dorothy T. Eisenberg, United States Bankruptcy Judge, United States Bankruptcy Court, Eastern District of New York, Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, New York 11722; (iv) mailed to SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753, Attn: Randy J. Schaefer, Esq.; and (v) mailed to the Office of the United States Trustee, 560 Federal Plaza, Central Islip, New York 11722, no later than **5:00 p.m. on June 11, 2013**.

Dated: Jericho, New York
April 23, 2013

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

By: s/ Randy J. Schaefer
Randy J. Schaefer
Counsel to 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
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300
Anthony C. Acampora, Esq.
David J. Mahoney, Esq.
Randy J. Schaefer, Esq.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X

In re:

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

AGAPE WORLD, INC.,
AGAPE MERCHANT ADVANCE LLC,
AGAPE COMMUNITY LLC, AGAP
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.: 10-08376 (DTE)

-against -

MARY BOYLE,

Defendant.

-----X

**TRUSTEE'S MOTION FOR AN ORDER (I) REOPENING
THE ADVERSARY PROCEEDING; (II) SEEKING THE APPROVAL
UNDER BANKRUPTCY RULE 9019(a) OF A THE STIPULATION PROVIDING
FOR THE CONDITIONAL SATISFACTION OF THE TRUSTEE'S JUDGMENT
AGAINST MARY BOYLE; AND (III) RE-CLOSING THE ADVERSARY PROCEEDING**

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") for entry of an Order (attached as **Exhibit A**) (I) reopening the adversary proceeding; (II) seeking the approval under 11 U.S.C. §105 and Federal Rule of Bankruptcy Procedure 9019(a) of the proposed settlement of the Trustee's claim under §§105, 502, 547, 550 and 551, against Mary Boyle as memorialized in the

Stipulation Providing for the Conditional Satisfaction of Trustee's Judgment against Mary Boyle (the "Stipulation"), which is attached as **Exhibit B**; and (III) re-closing the adversary proceeding. 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 account of Agape's books and records.

8. Based upon Navigant's analysis, the Trustee determined that Defendant received certain transfers totaling \$68,636.00 made by the Debtors to Defendant that are avoidable pursuant to §§105, 502, 547, 550 and 551.

9. On August 27, 2010, the Trustee commenced an adversary proceeding, assigned number 10-08376, by filing a complaint against Defendant (the "Adversary Proceeding"), by the filing and service of a summons and complaint under 11 U.S.C. §§105, 502, 547, 550 and 551, seeking to, *inter alia*, avoid and recover the Transfers (the "Claim").

10. On April 2, 2012, the Trustee filed a motion for default judgment (the "Default Motion") against Defendant for failure to answer or otherwise respond in the Adversary Proceeding.

11. On May 30, 2012, the Court granted the Default Motion and entered a judgment (the "Judgment") against Defendant on June 1, 2012.

12. Thereafter, the Trustee commenced judgment enforcement proceedings by, *inter alia*, serving an information subpoena and restraining notice of Bank of America, N.A. (collectively, the "Subpoena").

13. In response to the Subpoena, Bank of America, N.A., restrained two of Defendant's bank accounts (the "Bank Accounts").

14. Thereafter, Defendant, through her counsel, contacted the Trustee with respect to satisfying the Judgment.

15. In the spirit of compromise, Defendant has offered to pay \$50,000.00 (the "Settlement Sum") in full and final satisfaction of the Judgment.

16. The Trustee has received the Settlement Sum from Defendant and therefore, upon Court's approval of the Stipulation (the "Approval Order"), the Judgment against Defendant will be satisfied.

Settlement

17. Based upon his review of all documentation related to the Transfers, 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 Adversary Proceeding and any resulting judgment efforts.

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

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

Basis for Relief Requested

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

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

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

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

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

In re Iridium Operating LLC, 478 F.3d 452, 462 n.15 (2d Cir. 2007) (quoting *Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424-425, *reh'g denied*, 391 U.S. 909 (1968)). See *In re Arrow Air, Inc.*, 85 B.R. 886, 891

(Bankr. S.D. Fla. 1988); *In re Bell & Beckwith*, 77 B.R. 606, 611 (Bankr.N.D.Ohio), *aff'd*, 87 B.R. 472 (N.D.Ohio 1987); *Cf. Magill v. Springfield Marine Bank (In re Heissinger Resources Ltd.)*, 67 B.R. 378, 383 (C.D. Ill. 1986) ("the law favors compromise").

22. In making its determination on the "propriety of the settlement", the Court should consider whether the proposed settlement is in the "best interest of the estate."¹ As stated in *Arrow Air*, the "approval of [a] proposed compromise and settlement is a matter of this Court's sound discretion." *Arrow Air*, 85 B.R. at 891. In passing upon a proposed settlement, "the bankruptcy court does not substitute its judgment for that of the trustee." *In re Depo*, 77 B.R. at 384 (citations omitted). The bankruptcy court is not required "to decide the numerous questions of law and fact raised by [objectors] . . . [R]ather [the Court should] canvass the issues and see whether the settlement falls below the lowest point in the range of reasonableness."² In passing upon the reasonableness of a proposed compromise, the Court "may give weight to the opinions of the Trustee, the parties and their counsel." *Bell & Beckwith*, 77 B.R. at 612; see also *In re Handler*, 386 B.R. at 421.

23. The Second Circuit in *In re Iridium Operating LLC*³ 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;

¹ *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).

² *Cosoff v. Rodman (In re W.T. Grant Co.)*, 699 F.2d 599, 608 (2d Cir. 1983), *cert denied*, 464 U.S. 822 (1983)(quoting *Newman v. Stein*, 464 F.2d 689, 693 (2d Cir. 1972), *cert denied*, 409 U.S. 1039 (1972); See *In re Handler*, 386 B.R. at 420-21.

³ 478 F.3d 452 (2d Cir. 2007).

- 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 length bargaining.

See *In re Iridium Operating LLC*, 478 F.3d at 462.

24. Here, Defendant has offered to voluntarily remit more than 72% of the Transfers in satisfaction of the Judgment without incurring significant fees or expenses associated with judgment enforcement. The Trustee submits that based upon the costs and uncertainties associated with judgment enforcement, it would be mere speculation to believe that further enforcement of the Judgment would result in a "net benefit" to the Debtors' estate that exceeds the Settlement Sum. In the sound business judgment of the Trustee, the proposed satisfaction is both appropriate and warranted. The Trustee believes that the Stipulation is fair and equitable and in the best interest of the estate.

Notice of Motion

25. The Trustee has served the Notice of Motion, proposed Order, and Motion in support with Exhibit upon: (i) the Office of the United States Trustee; (ii) Nicholas Cosmo, the former principal of the Debtor; (iii) Defendant; (iv) Defendant's counsel; (v) the taxing authorities; 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. 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.

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

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

Dated: Jericho, New York
April 23, 2013

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

By: s/ Randy J. Schaefer
Randy J. Schaefer
Counsel to 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-

MARY BOYLE,

Defendant.

-----X

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

Adv. Pro. No.: 10-08376 (DTE)

**ORDER (I) REOPENING THE ADVERSARY PROCEEDING;
(II) APPROVING UNDER BANKRUPTCY RULE 9019(a) THE STIPULATION
PROVIDING FOR THE CONDITIONAL SATISFACTION OF TRUSTEE'S JUDGMENT
AGAINST MARY BOYLE; AND (III) RE-CLOSING THE ADVERSARY PROCEEDING**

Upon the Notice of Motion (the "Notice"), dated April 23, 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 (I) reopening the adversary proceeding; (II) approving the stipulation (the "Stipulation") providing for the conditional satisfaction of the Trustee's judgment against Mary Boyle (the "Defendant"); and (III) re-closing the adversary proceeding; 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 claim pursuant to §§105, 502, 547, 550 and 551, against Defendant to be fair, reasonable and in the best interest of the Debtors' estate; and sufficient cause having been

shown therefore; and after due deliberation and consideration having been had; and it appearing that good and sufficient cause exists for granting the Motion and proposed Order; and additional notice being neither necessary nor 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, 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) Defendant, (iv) Defendant's counsel, (v) the appropriate taxing authorities, 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 Clerk of the Court is directed to re-open this adversary proceeding assigned case-number 10-08376 (DTE); and it is further

ORDERED, that pursuant to Bankruptcy Rule 9019(a), the satisfaction of the Trustee's judgment 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 including filing a copy of this Order with the County Clerk attesting to the Satisfaction of Judgment against Mary Boyle and expend such funds as may be reasonably necessary to effectuate and implement the terms and condition of this Order; and it is further

ORDERED, Clerk of the Court is directed to close this adversary proceeding assigned case-number 10-08376 (DTE).

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.

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

Plaintiff,

-against-

MARY BOYLE,

Defendant.
-----X

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

Adv. Pro. No.: 10-08376 (DTE)

**STIPULATION PROVIDING FOR THE CONDITIONAL SATISFACTION OF
TRUSTEE'S JUDGMENT AGAINST MARY BOYLE**

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").

The Trustee's Adversary Proceeding

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 Agape to Mary Boyle ("Defendant").

VIII. On August 27, 2010, the Trustee commenced this adversary proceeding against Defendant by the filing of a complaint, wherein the Trustee asserted that certain transfers totaling Sixty Eight Thousand Six Hundred Thirty Six And 00/100 (\$68,636.00) Dollars (the "Net Transfers") made by the Debtors to the Defendant prior to the Filing Date were avoidable pursuant to 11 U.S.C. §§544, 547, 550 and 551 and New York Debtor and Creditor Law §§273 through 276-a and New York Common Law (the "Trustee's Claims").

IX. On April 2, 2012, the Trustee filed a motion for default judgment (the "Motion") for Defendant's failure to answer or otherwise respond to the complaint.

X. On May 30, 2012, the Court granted the Trustee's Motion and entered a judgment (the "Judgment") against the Defendant.

XI. Thereafter, the Trustee commenced judgment enforcement proceedings by, *inter alia*, serving an information subpoena and restraining notice on Bank of America, N.A. (collectively, the "Subpoena").

XII. In response to the Trustee's Subpoena, Bank of America, N.A. restrained two bank accounts (the "Bank Accounts").

XIII. Thereafter, Defendant through her counsel, contacted the Trustee's counsel with respect to satisfying the Judgment.

XIV. The parties engaged in informal discovery related to the Claim and the defenses asserted by Defendant.

XV. In the spirit of compromise, Defendant has offered to voluntarily remit the sum of Fifty Thousand And 00/100 (\$50,000.00) Dollars (the "Settlement Sum") to the Trustee in full and final satisfaction of the Trustee's Judgment (the "Stipulation").

XVI. 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 Judgment upon the following terms and conditions, which the Trustee believes are fair and reasonable, especially in light of the costs and uncertainty associated with enforcing the Judgment.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and among the parties hereto, that the Trustee's Judgment 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 the execution of this Stipulation, the Defendant will direct the Bank of America, N.A. (the "Bank") through a letter drafted by the Trustee to the Bank authorizing them ("Trustee's Letter") to remit a check, in the amount of \$50,000.00, from the Bank Accounts, made payable to "Kenneth P. Silverman, Esq., as Chapter 7 Trustee", by delivering the check to Trustee's counsel at SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York, 11753, Attention: Linda Tumino.

3. The Trustee's proposed satisfaction of the Judgment is expressly conditioned upon his timely receipt of the Settlement Sum. The Trustee will withhold from further judgment enforcement efforts until April 1, 2013. In the event that the Trustee does not receive the Settlement Sum because Defendant failed to deliver the Trustee's Letter to the Bank by April 1, 2013, the Trustee shall be relieved of his duty to satisfy the Judgment under this Stipulation and he shall retain all of his rights and remedies as a judgment creditor under New York law. Defendant agrees to use her best efforts to assist the Bank in delivering the Settlement Sum to the Trustee.

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

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

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

No Admission of Criminal or Civil Liability

7. 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 Defendants' part. For clarification, this paragraph is not intended and shall not be deemed to affect Defendants' 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 Defendants fail to make timely payment of the Settlement Sum.

Effect of Settlement upon Timely-Filed Proofs of Claim

8. The parties to the Stipulation acknowledge and agree that notwithstanding the release language contained herein, the Stipulation and the settlement memorialized herein are not intended, and should not be interpreted to otherwise release, waive or discharge either parties' rights, defenses, claims or objections with respect to any proof of claim that was timely-filed by Defendant in the Debtors' substantively-consolidated case. For the purposes of clarification, by entering into this Stipulation, the Trustee has not, is not intending and shall not be deemed to have validated, approved or otherwise allowed any proof of claim previously filed by Defendant.

9. Upon execution of this Stipulation and the Trustee's receipt and clearance of the Settlement Sum, the Trustee and the estate specifically release, discharge and waive the Second Claim for Relief to disallow any proof of claim timely filed by Defendant pursuant to Bankruptcy Code §502(d).

10. Upon payment of the Settlement Sum, but no more than sixty (60) days after payment of the Settlement Sum, Defendant shall have the right to file and serve on Trustee's counsel a proof of claim or an amended proof of claim including the amount of the Settlement Sum paid hereunder, pursuant to Bankruptcy Code §502(h). Defendant acknowledges and agrees that her Bankruptcy Code §502(h) claim shall be disallowed if it is not filed and served on Trustee's counsel within sixty (60) days of payment.

Releases

11. Upon execution of this Stipulation and the Trustee's receipt and clearance of the Settlement Sum, the Trustee and the estate release and forever discharge Defendant, her 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

12. Upon the Trustee's receipt and clearance of the Settlement Sum, the Trustee and the estate will authorize Bank of America, N.A. to lift the pending restraint on Defendant's Bank Accounts, cease further efforts to enforce the Judgment and file a satisfaction of Judgment on the docket of this Adversary Proceeding.

13. Except as expressly provided herein, 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, proofs of claim, claims for relief, demands, costs, expenses, damages, liabilities, and obligations of any nature.

Miscellaneous

14. 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.

15. The person executing this Stipulation warrants and represents that she or he is authorized and empowered to execute and deliver this Stipulation on behalf of such party.

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

17. 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.

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

Dated: Jericho, New York
~~February~~ __, 2013
March 4,

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

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

Dated: Mineola, New York
February __, 2013

Law Offices of Michael P. Giampilis, P.C.
Attorneys for Defendant, Mary Boyle

By: s/ Michael P. Giampilis
Michael P. Giampilis
94 Willis Avenue
Mineola, New York 11501
(516) 739-5838