

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

Hearing Date: July 3, 2014
Time: 9:30 p.m.

Objections Due: June 26, 2014
Time: 5:00 p.m.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

Chapter 7
Case No.: 09-70660 (AST)
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.: 11-08486 (REG)

-against-

MARIO DEPASCALE,

Defendant.
-----X

**NOTICE OF HEARING OF A MOTION
FOR AN ORDER (I) RE-OPENING ADVERSARY PROCEEDING;
(II) APPROVING A STIPULATION SETTLING THE TRUSTEE'S CLAIMS
AGAINST MARIO DEPASCALE; AND (III) RE-CLOSING THE ADVERSARY PROCEEDING**

PLEASE TAKE NOTICE, that upon the annexed motion (the "Motion"), Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") for the substantively consolidated estate of Agape World, Inc., *et al.*, by his counsel, SilvermanAcampora LLP, will move before the Honorable Robert E. Grossman, 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 **July 3, 2014 at 9:30 a.m.**, or as soon thereafter as counsel can be heard, seeking entry of an Order (I) re-opening this adversary proceeding; (II) approving a stipulation of

settlement with Mario Depascale; and (III) re-closing the adversary proceeding. 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 Robert E. Grossman, United States Bankruptcy Judge, United States Bankruptcy Court, Eastern District of New York, Long Island Federal Courthouse, 290 Federal Plaza, Central Islip, New York 11722; (iv) mailed to SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753, Attn: David J. Mahoney, Esq.; and (v) mailed to the Office of the United States Trustee, 560 Federal Plaza, Central Islip, New York 11722, no later than **June 26, 2014 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
May 15, 2014

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

By: s/ David J. Mahoney
David J. Mahoney
Member of the Firm
100 Jericho Quadrangle, Suite 300
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SILVERMANACAMPORA LLP
Counsel to Kenneth P. Silverman, Esq.,
Chapter 7 Trustee
100 Jericho Quadrangle, Suite 300
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Christopher J. Rubino, Esq.

UNITED STATES BANKRUPTCY COURT
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In re:

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

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

Debtors.

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

Plaintiff,

Adv. Pro. No.: 11-08486 (REG)

-against-

MARIO DEPASCALE,

Defendant.

-----X

**MOTION FOR AN ORDER
(I) RE-OPENING ADVERSARY PROCEEDING;
(II) APPROVING A STIPULATION SETTling THE TRUSTEE'S CLAIMS
AGAINST MARIO DEPASCALE; 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") under 11 U.S.C. §105 and Federal Rules of Bankruptcy Procedure 9019(a) for entry of an Order (attached as **Exhibit 1**) (I) reopening the adversary proceeding; (II) approving a stipulation settling the Trustee's claims against Mario Depascale (the "Defendant"); and (III) reclosing the adversary proceeding, respectfully sets forth and represents as follows:

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 (Docket No. 106), the Trustee retained Navigant Consulting Inc. ("Navigant"), to, among other things, conduct a forensic analysis of Agape's books and records.

8. Based upon Navigant's analysis, the Trustee determined that Defendant received certain transfers, net of deposits into Agape, totaling Forty-One Thousand Eight Hundred Four and 00/100 (\$41,804.00) Dollars (the "Net Transfers") from the Debtors prior to the Petition Date.

9. On February 3, 2011, the Trustee commenced this adversary proceeding against Defendant by the filing of a complaint (Adv. Pro. No. 11-08486) (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").

10. On January 30, 2012, the Trustee filed a motion for default judgment (the "Motion") for Defendant's failure to answer or otherwise respond to the complaint.

11. On August 8, 2012, the Court granted the Trustee's Motion and entered a judgment (the "Judgment") against the Defendant.

12. On May 6, 2013, the Trustee docketed the Judgment with the Nassau County Clerk's Office.

13. Thereafter, the Trustee commenced judgment enforcement proceedings by, *inter alia*, serving an information subpoena and restraining notice (collectively, the "Subpoena") on Capital One Bank (the "Bank").

14. In response to the Trustee's Subpoena, the Bank restrained one of Defendant's bank accounts (the "Bank Account").

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

16. The parties engaged in further discovery related to the Trustee's Claims, and the equitable defenses asserted by Defendant to enforcement of the Judgment.

17. Through discovery, Defendant furnished the Trustee with additional unaccounted deposits (the "Additional Deposits"), reducing the amount of the Net transfers to \$25,579.00.

18. In order to avoid the costs, expenses and uncertainty of continued litigation, the parties have now agreed to resolve the Trustee's Claims upon the terms and conditions contained in the stipulation (the "Stipulation"). A copy of the Stipulation is annexed hereto as

Exhibit 2.

19. Defendant has offered to remit the total sum of Eighteen Thousand and 00/100 (\$18,000.00) Dollars (the "Settlement Sum") to the Trustee in full and final settlement of the Trustee's Claims and in satisfaction of the Judgment.

Settlement

21. The Trustee has determined that settling this matter for the Settlement Sum is the most economical and efficient way to realize a meaningful and beneficial recovery for the benefit of creditors without the need to incur legal fees and risks inherent with the prosecution of the Trustee's Claims and any resulting judgment efforts.

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

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

Basis for Relief Requested

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

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

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

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

course, is the need to compare the terms of the compromise with the likely rewards of litigation.

Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson, 390 U.S. 414, 424-425, *reh'g denied*, 391 U.S. 909 (1968). See *American Can Co. v. Herpel (In re Jackson Brewing Co.)*, 624 F.2d 605, 607 (5th Cir. 1980); *Chopin Assoc. v. Smith (In re Holywell Corp.)*, 93 B.R. 291, 294 (Bankr. S.D. Fla. 1988); *In re Arrow Air, Inc.*, 85 B.R. 886, 891 (Bankr. S.D. Fla. 1988); *In re Bell & Beckwith*, 77 B.R. 628, 611 (Bankr. N.D. Ohio), *aff'd*, 87 B.R. 472 (N.D. Ohio 1987); *Cf. Magill v. Springfield Marine Bank (In re Heissinger Resources Ltd.)*, 67 B.R. 378, 383 (C.D. Ill. 1986) ("the law favors compromise").

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

27. The factors to be considered by the Court in determining whether to approve a compromise or settlement include (a) probability of success in the litigation, with due consideration for the uncertainty in fact and law, (b) the complexity and likely duration of the litigation and any attendant expense, inconvenience and delay, and (c) all other factors bearing on the wisdom of the compromise. *Arrow Air*, 85 B.R. at 891 (citing *TMT Trailer Ferry*, 390 U.S. at 424-25). See *Jackson Brewing Co.*, 624 F.2d at 507; *Holywell Corp.*, 93 B.R. at 294-95 (citations omitted).

28. Following the entry of the Judgment and restraining of the Bank Account, Defendant provided the Trustee with the Additional Deposits, thus, reducing the amount of the Net Transfers. By offering to remit the Settlement Sum, Defendant has offered to remit a significant portion of the Net Transfers in satisfaction of the Trustee's Claims and the Judgment, without causing the Debtors' estate to incur significant fees or expenses.

29. The Trustee submits that considering the costs and uncertainties associated with judgment enforcement, and the amount of the Trustee's demand, it is unlikely that further litigation would result in a "net benefit" to the Debtors' estate in excess of the Settlement Sum. In the sound business judgment of the Trustee, the proposed settlement is both appropriate and warranted. The Trustee believes that the settlement is fair and equitable and in the best interest of the estate.

30. Accordingly, the Trustee respectfully requests that this Court enter an Order (I) reopening the adversary proceeding; (II) approving a stipulation settling the Trustee's Claims against Defendant; and (III) reclosing the adversary proceeding.

Notice

31. The Trustee has served the Notice of Hearing, proposed Order, and Motion in support with Exhibit upon: (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. 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.

32. 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 enter an Order under Bankruptcy Code §105 and Bankruptcy Rule 9019 (I) reopening the adversary proceeding; (II) approving a stipulation settling the Trustee's claims against Defendant; and (III) reclosing the adversary proceeding, and granting such other, further, and different relief as this Court deems just and proper.

Dated: Jericho, New York
May 15, 2014

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

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

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

-----X
In re:

Chapter 7
Case No.: 09-70660 (AST)
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.: 11-08486 (REG)

-against-

MARIO DEPASCALE,

Defendant.

-----X

**ORDER (I) RE-OPENING ADVERSARY PROCEEDING;
(II) APPROVING A STIPULATION SETTLING THE TRUSTEE'S CLAIMS
AGAINST MARIO DEPASCALE; AND (III) RE-CLOSING THE ADVERSARY PROCEEDING**

Upon the Notice of Hearing (the "Notice"), dated May 15, 2014, and related application (collectively, the "Application") 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 a stipulation settling the Trustee's claims against Mario Depascale (the "Defendant"); and (III) reclosing the adversary proceeding; and upon the Affidavit of Service filed with the Court; and no objections to the Application or the proposed Order having been filed; and the Court having found that good cause exists to reopen adversary proceeding number 11-08486 (REG), and the Court having found that the settlement of the Trustee's claims 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 against Defendant to be fair, reasonable

and in the best interest of the Debtors' estate; and sufficient cause having been shown therefor; and after due deliberation and consideration having been had; and it appearing that sufficient notice of the Application and proposed Order has been given; and it appearing that good and sufficient cause exists for granting the Application and proposed Order; and no additional notice being necessary or required.

NOW, THEREFORE, upon the Notice and Application of the Trustee and pursuant to 11 U.S.C. §105 and Federal Rule of Bankruptcy Procedure 9019(a) and other applicable law, it is hereby

ORDERED, that service of the Notice and Application 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 Application is granted, and it is further

ORDERED, that adversary proceeding number 11-08486 (REG) is reopened; 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 the proposed satisfaction of judgment against Defendant, as memorialized in the Stipulation, is approved, and it is further

ORDERED, that adversary proceeding number 11-08486 (REG) is to be reclosed upon entry of this Order, and it is further

ORDERED, that the Trustee is authorized and directed to file a satisfaction of Judgment with the Nassau County Clerk's office, satisfying the Judgment against Defendant, 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 2

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In re:-----X

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

Debtors.

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

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

Plaintiff,

-against-

Adv. Pro. No.: 11-08486 (REG)

MARIO DEPASCALE,

Defendant.-----X

**STIPULATION PROVIDING FOR THE CONDITIONAL SATISFACTION OF
TRUSTEE'S JUDGMENT AGAINST MARIO DEPASCALE**

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 Marlo DePascale ("Defendant").

VIII. On February 3, 2011, the Trustee commenced this adversary proceeding (the "Adversary Proceeding") against Defendant by filing a complaint, wherein the Trustee asserted that: (i) certain transfers totaling \$41,804.00 (the "Transfers") made by the Debtor to the 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").

IX. On January 30, 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 August 8, 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 (collectively, the "Subpoena") on Capital One Bank (the "Bank").

XII. In response to the Trustee's Subpoena, The Bank restrained an account (the "Bank Account").

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XIII. Thereafter, Defendant, through his counsel, contacted the Trustee's counsel with respect to satisfying the Judgment and subsequently provided the Trustee with additional information which demonstrated previously unaccounted for deposits, which made the Defendant a net winner of \$25,579.00.

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

XV. In the spirit of compromise, and without any admission of liability Defendant has offered to voluntarily remit the sum of Eighteen Thousand And 00/100 (\$18,000.00) Dollars (the "Settlement Sum") to the Trustee, in full and final of the Trustee's Claims (the "Stipulation").

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

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 through a letter drafted by the Trustee to the Bank ("Trustee's Letter") authorizing the Bank to remit a check, in the amount of \$18,000.00, 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. In consideration for Defendant's promise to pay the Settlement Sum, the Trustee will withhold from further judgment enforcement efforts until January 30, 2014. Defendant agrees to use his best efforts to assist the Bank in delivering the Settlement Sum to the Trustee. In the event that the Trustee does not receive the Settlement Sum by January 30, 2014, 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.

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

5. 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.

Releases

6. Upon execution of this Stipulation and the Trustee's receipt and clearance of the entire 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).

7. Upon the Trustee's receipt and clearance of the Settlement Sum, the Trustee and the estate will authorize The Bank to lift the pending restraint on Defendant's Bank Account,

cease further efforts to enforce the Judgment and the Trustee will file a satisfaction of Judgment on the docket of this Adversary Proceeding.

Miscellaneous

8. 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.

9. 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.

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

11. 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.

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

Dated: Jericho, New York
January __, 2014

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: Hempstead, New York
January 20, 2014

Attorneys for the Defendant, Mario Depascale

By: s/ Gayle Rubinstein
Gayle Rubinstein of Counsel D. Friedman
62 Nichols Court, Suite 204
Hempstead, New York 11550
(516) 538-5462

Dated: Hicksville, New York
January 20, 2014

Defendant

By: s/ Mario Depascale
Mario Depascale
7 Westmoreland Road
Hicksville, New York 11801