

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 8, 2014
Time: 2:00 p.m.

Objections Due: August 5, 2014
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-

MARK KALASH,

Defendant.
-----X

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

Adv. Pro. No.: 10-08902 (AST)

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

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 Alan S. Trust, 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 8, 2014 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 Mark Kalash. 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 Alan S. Trust, 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 5, 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
June 27, 2014

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
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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 (AST)
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AGAPE WORLD, INC.,
AGAPE MERCHANT ADVANCE LLC,
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Debtors.

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

Plaintiff,

Adv. Pro. No.: 10-08902 (AST)

-against-

MARK KALASH,

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 MARK KALASH**

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 against Mark Kalash (the "Defendant"), as memorialized in the Stipulation Settling the Trustee's Claims Against Mark Kalash, (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 June 16, 2009, Defendant filed a Proof of Claim against the Debtors' estate, assigned Claim No. 4263, in the amount of Four Hundred Twenty Thousand and 00/100 (\$420,000.00) Dollars.

9. On December 6, 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 Two Hundred Fifty-Nine Thousand One Hundred Twenty-One and 00/100 (\$259,121.00) Dollars (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, and that certain transfers totaling Ten Thousand Five Hundred Twenty-Five and 00/100 (\$10,525.00) Dollars (the "Preferential Transfers") made by the Debtors to Defendant within 90 days prior to the Filing Date are avoidable pursuant to 11 U.S.C. §§547 and 550 (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, whereby Defendant has demonstrated to the Trustee an inability to satisfy a judgment in this Adversary Proceeding.

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 the 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 Twenty-Six Thousand and 00/100 (\$26,000.00) Dollars (the "Settlement Sum"), and to waive Claim No. 4263 (the "Claim Waiver").

13. Based upon his review of all documentation related to the Net Transfers and the Preferential 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 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.¹

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."² As stated in *Arrow Air*, the "approval of [a] proposed compromise and settlement is a matter of this Court's sound discretion."³ In passing upon a proposed settlement, "the bankruptcy court does not

¹ *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").

² *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).

³ *Arrow Air*, *supra*, 85 B.R. at 891.

substitute its judgment for that of the trustee.”⁴ 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.”

18. 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;
- 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

19. The Settlement Sum represents a guaranteed recovery to the estate. Considering the financial disclosure that was provided by Defendant to the Trustee, it would be

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

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).

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

speculative to believe that the Trustee would be able to recover more than the Settlement Sum through adversarial judgment enforcement.

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, 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. 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.

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 this Court deems just and proper.

Dated: Jericho, New York
June 27, 2014

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:

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.: 10-08902 (AST)

-against-

MARK KALASH,

Defendant.
-----X

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

Upon the Notice of Presentment (the "Notice"), dated June 27, 2014, 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 Mark Kalash (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, 547, 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 having 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 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 B

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. 10-08902 (AST)

-against-

MARK KALASH,

Defendant.
-----X

**STIPULATION SETTLING THE
TRUSTEE'S CLAIMS AGAINST MARK KALASH**

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 June 16, 2009, Mark Kalash (the "Defendant") filed a Proof of Claim against the Debtors' estate, assigned Claim No. 4263, in the amount of Four Hundred Twenty Thousand and 00/100 (\$420,000.00) Dollars.

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 6, 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 Two Hundred Fifty-Nine Thousand One Hundred Twenty-One and 00/100 (\$259,121.00) Dollars (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, and that certain transfers totaling Ten Thousand Five Hundred Twenty-Five and 00/100 (\$10,525.00) Dollars (the "Preferential Transfers") made by the Debtors to Defendant within 90 days prior to the Filing Date are avoidable pursuant to 11 U.S.C. §§547 and 550 (the "Trustee's Claims").

X. Thereafter, Defendant's counsel contacted the Trustee to engage in informal discovery related to the Trustee's Claims and Defendant's ability to satisfy a judgment.

XI. In the spirit of compromise and without any admission of liability, Defendant has offered to remit the settlement sum of Twenty-Six Thousand and 00/100 (\$26,000.00) Dollars (the "Settlement Sum"), and to waive Claim No. 4263, in full and final settlement of the Trustee's Claims.

XII. Based upon the Trustee's review of all documentation related to the Net Transfers and Preferential 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 two (2) installments (each, an "Installment" and collectively, the "Installments"). The first Installment, in the amount of Thirteen Thousand and 00/100 (\$13,000.00) Dollars, is due upon execution of this Stipulation. The second Installment, in the amount of Thirteen Thousand and 00/100 (\$13,000.00) Dollars, is due on or before September 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 Two Hundred Fifty-Nine Thousand One Hundred Twenty-One and 00/100 (\$259,121.00) Dollars, 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 8 Chelsea Drive, Port Washington, New York 11050; and (ii) Defendant's counsel at Cooperman Lester Miller LLP, 1129 Northern Boulevard, Suite 402, Manhasset, New York 11030, Attn: Eric Gruber, 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. 4263, 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. 4263, 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 waives any and all claims, claims for relief, demands, costs, expenses, damages, liabilities, and obligations of any nature against the Debtors' estate, the Trustee and the Trustee's agents, attorneys, assigns and successors-in-interest, including but not limited to: (i) his right to receive a distribution on any scheduled claim potentially listed on Schedule F of the Debtors' petitions; (ii) his right to file a proof of claim under Bankruptcy Code §502(h) in connection with the Settlement Sum; and (iii) his right to any further distribution from the Debtors' estate.

No Admission of Criminal or Civil Liability

10. 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

11. 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.

12. 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.

13. 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.

14. 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.

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

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

Dated: Jericho, New York
June __, 2014

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
June 12, 2014

COOPERMAN LESTER MILLER LLP
Attorneys for Defendant Mark Kalash

By: s/ Eric Gruber
Eric Gruber
1129 Northern Blvd., Suite 402
Manhasset, NY 11030
Tel: (516) 365-1400

Dated: Port Washington, New York
June 12, 2014

MARK KALASH
Defendant

s/ Mark Kalash
Mark Kalash

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

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

**NOTICE OF WAIVER AND WITHDRAWAL OF CLAIM NO. 4263
FILED BY MARK KALASH IN THE AMOUNT OF \$420,000.00**

Mark Kalash hereby waives and withdraws, with prejudice, his general unsecured claim, assigned Claim No. 4263, filed on June 16, 2009, in the amount of Four Hundred Twenty and 00/100 (\$420,000.00) Dollars, 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. 4263 with prejudice. A copy of Claim No. 4263 is attached hereto.

Dated: June 12, 2014

By: s/ Mark Kalash
Mark Kalash
8 Chelsea Drive
Port Washington, New York 11050
(516) 680-7041



UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF NEW YORK	PROOF OF CLAIM CHAPTER 7
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Name of Debtor Agape World Inc	Case Number 09-70660 (DTE)
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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) Name and address where notices should be sent KALASH, MARK 8 CHELSEA DR PT WASHINGTON, NY 11050 [Redacted] Telephone number [Redacted]	<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim Court Claim Number _____ (if known) Filed on _____
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**FILED - 04263
USBC - EASTERN DISTRICT OF NEW YORK
AGAPE WORLD INC
09-70660 (DTE)**

Name and address where payment should be sent (if different from above) Telephone number _____	<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 <input type="checkbox"/> Check this box if you are the debtor or trustee in this case
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1 Amount of Claim as of Date Case Filed <u>\$ 420,000</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 checked="" 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.	5 Amount of Claim Entitled to Priority under 11 U.S.C. §507(a) 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:
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2 Basis for Claim <u>money loaned, home refinanced</u> <small>(See instruction #2 on reverse side.)</small> 3 Last four digits of any number by which creditor identifies debtor _____ 3a Debtor may have scheduled account as <u>Money was always given in a bank check</u> <small>(See instruction #3a on reverse side.)</small>	<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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4 Secured Claim (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 \$ _____	<input type="checkbox"/> 6 Credits The amount of all payments on this claim has been credited for the purpose of making this proof of claim. <input type="checkbox"/> 7 Documents 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.) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain _____
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Date <u>6/13/09</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. [Redacted Signature]	
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