

SILVERMANACAMPORA LLP
Attorneys for Kenneth P. Silverman, Esq.
Chapter 7 Trustee
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300
Kenneth P. Silverman, Esq.
Ronald J. Friedman, Esq.
David J. Mahoney, Esq.

Hearing Date: November 14, 2013
Time: 10:00 a.m.
Objections Due: November 7, 2013
Time: 4:00 p.m.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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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.

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

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**TRUSTEE'S APPLICATION FOR ORDER
AWARDING SECOND INTERIM COMMISSION**

**TO: HONORABLE DOROTHY T. EISENBERG
UNITED STATES BANKRUPTCY JUDGE:**

Kenneth P. Silverman, Esq., Chapter 7 Trustee (the "Trustee") of Agape World, Inc. *et al.*, (the "Debtors"), by his attorneys, SilvermanAcampora LLP, submits this application (the "Application") seeking the entry of an order authorizing and directing the payment of a second interim commission to the Trustee based upon the Trustee's disbursements pursuant to 11 U.S.C. §§105, 326, and 330, and respectfully sets forth and represents as follows:

BACKGROUND

1. On February 5, 2009, an involuntary petition was filed against Agape World, Inc. ("AWI"), in accordance with chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Eastern District of New York.

2. On February 12, 2009, the Court granted the motion of the petitioning creditors and directed the United States Trustee to appoint an interim trustee and by Notice of Appointment,

Kenneth P. Silverman, Esq., was appointed the interim trustee of the AWI estate has since duly qualified and is now the permanent trustee in this case.

3. By Order of the Court dated February 17, 2009, SilvermanAcampora was retained as counsel to the Trustee, effective February 12, 2009, a copy of which is annexed hereto as Exhibit "A".

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

5. On April 12, 2009, the Court entered an Order substantively consolidating Agape Merchant Advance LLC, Agape Community LLC, Agape Construction Management LLC, Agape World Bridges LLC, and 114 Parkway Drive South LLC (together with "AWI", the "Debtors"), in the AWI case.

THE TRUSTEE'S FIRST INTERIM COMMISSIONS AWARD

6. Based on the disbursements made by the Trustee during the first interim period of February 12, 2009 through April 30, 2013 (the "First Interim Period") in the amount of \$16,299,760.85, the Trustee earned commissions of \$512,242.83. In accordance with an Order of this Court dated July 11, 2013, the Trustee was authorized to receive \$250,000.00 as and for a first interim commissions award with a holdback in the amount of \$262,242.83 pending further order of the Court (the "First Interim Holdback").

THE TRUSTEE'S SECOND INTERIM COMMISSIONS REQUEST

7. The total receipts in the Debtors' estates, including interest, for the period May 1, 2013 through September 30, 2013 (the "Second Interim Period"), is \$1,699,663.69. The Total disbursements made by the Trustee from the Trustee's accounts for this Second Interim Period, not including the Trustee's first interim commissions award of \$250,000.00 was \$5,514,197.51.

8. Based upon the total sum disbursed from the Trustee's accounts, and in accordance with Bankruptcy Code Section 326, the total commission earned by the Trustee for the Second Interim Period equals \$165,425.93. When taken with the First Interim Holdback, the total commissions due the Trustee is \$427,668.76. However, the Trustee is requesting payment of

46.7%, or \$250,000.00 at this time.

9. During this second interim period, the Trustee has performed the following services:
- (a) instructed my counsel to continue legal research regarding Trustee's claims against brokers and related third parties and conferred with my counsel regarding results of same;
 - (b) consulted with my counsel and forensic accountants regarding their extensive review and analysis of the Debtors financial records including the Debtors accounts receivable ledger, accounts payable ledger, and bank records;
 - (c) conferred with my counsel regarding their extensive analysis and review of documents obtained from the plethora of financial institutions in response to Rule 2004 Orders of this Court;
 - (d) consulted with my counsel regarding the analysis of enormous volume of documents produced by the various third parties regarding the Debtors financial affairs;
 - (e) extensive communication and conferencing with Navigant regarding pursuit of claims to be filed on behalf of the estate;
 - (f) instructed my counsel to pursue demands to recover preferential transfers;
 - (g) consulted with my counsel regarding the Debtors' fraudulent conveyances;
 - (h) conferred with my retained special litigation counsel, Diamond McCarthy LLP, Ruskin Moscou Faltischek, P.C., and Reid Collins & Tsai, LLP to continue to investigate potential third-party claims that the Trustee may maintain against certain entities and individuals;
 - (i) oversaw the analysis of defenses proffered by preference and fraudulent conveyance recipients, and conferred with counsel and special litigation counsel;
 - (j) directed my counsel and special litigation counsel to continue prosecution of adversary proceedings to avoid and recover asserted preferential transfers and fraudulent conveyances of the Debtors' property;
 - (k) attend conferences with counsel and special litigation counsel regarding status of their prosecution of over 1,000 adversary proceedings, mediations, settlement negotiations, procurement and turnover of settlement proceeds;
 - (l) directed my counsel to pursue potential claims against various individuals and entities under Bankruptcy Code §550;
 - (m) oversaw my counsel's prosecution of the balance of various subsequent transfer actions in accordance with §550 of the Bankruptcy Code for the recovery of funds transferred to third parties in furtherance of Default Judgment enforcement;
 - (n) instructed my counsel to continue claims analysis of the over 5,000 claims on file

to date and conferred with my counsel and Navigant regarding (i) preparation of numerous claims objection motions, (ii) drafting of numerous letter agreements to consensually reduce and/or withdraw claims without the need of formal claims objection motions, and (iii) the status of the claims resolution process throughout the course of my administration of this case;

- (o) directed my counsel to move before this Court on multiple occasions for authorization to disburse interim distributions to holders of claims that have been analyzed and validated, such that to date, over \$1,134,671.20 of the distribution reserve account has been distributed and the balance of \$2,265,328.80 is being held in a distribution escrow account to be distributed as additional claims are validated;
- (p) caused my counsel to prepare and serve the Trustee's motion to obtain authorization to disburse an additional \$7,000,000.00 to creditors of this estate;
- (q) reviewed all interim and final fee applications filed by the Trustee's professionals;
- (r) prepared for, and appeared at the hearing on the Trustee's First Interim Commissions Application;
- (s) responded to inquiries of creditors regarding status of claims and the administration of the estate; and
- (t) prepared and filed the instant second interim commission's application.

9. The foregoing represents a brief recitation of the litany of services performed by the Trustee in the oversight and administration of these substantial substantively consolidated estates and is not intended to be all encompassing. The Trustee reserves his right to provide further amplification of the services performed.

10. The estate will continue to be administered in Chapter 7 to liquidate any and all remaining assets, to include the (a) prosecution of substantial litigation and adversary proceedings, (b) the resolution of objections to claims, (c) the preparation of a final report, and (d) the preparation and filing of any other applications and orders that may be necessary to effectuate a complete liquidation of the assets of this estate. As such, the administration of this estate will continue until such time that the adversary proceedings are concluded and the claims resolved.

11. During the Second Interim Period, the Trustee earned commissions on \$5,514,197.51 as follows:

3% of \$5,514,197.51	=	\$165,425.93
Total second interim commissions earned	=	\$165,425.93
Balance of First Interim Holdback due	=	\$262,242.83
Total commissions due the Trustee	=	\$427,668.76
Second Interim Commissions Requested	=	\$250,000.00
Balance of holdback for future application	=	\$177,668.76

12. Pursuant to §326(a) of the Bankruptcy Code, the Trustee requests, as and for a Second Interim Award of Commissions, an order providing payment of \$250,000.00 at this time, with the balance of commissions in the amount of \$177,668.76 to be subject to further order of this Court.

13. No prior request for the relief sought herein, has been made to this or any other Court. Nothing contained herein shall be construed to be a waiver by of the Trustee of his right to seek additional commissions as warranted under Bankruptcy Code §326.

WHEREFORE, the Trustee respectfully requests the entry of an order: (i) awarding second interim commissions to the Trustee in the amount of \$250,000.00; (ii) authorizing payment of such commission; and (iii) such other, further and different relief as the Court may deem just and proper.

Dated: Jericho, New York
October 14, 2013

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

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

EXHIBIT A

SILVERMANACAMPORA LLP
Proposed Counsel to Kenneth P. Silverman, Esq.,
Chapter 7 Trustee
100 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 479-6300
Ronald J. Friedman, Esq.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK
AT CENTRAL ISLIP

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In re:

Chapter 7
Case No. 09-70660 (DTE)

AGAPE WORLD, INC.,

Debtor.

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**ORDER APPROVING THE NUNC PRO TUNC EMPLOYMENT OF
SILVERMANACAMPORA LLP, AS ATTORNEYS FOR THE *INTERIM* TRUSTEE**

Upon consideration of the application of Kenneth P. Silverman, Esq., the *interim* trustee (the "Trustee") of the estate of Agape World, Inc. (the "Debtor"), seeking authority to employ SILVERMANACAMPORA LLP ("SILVERMANACAMPORA"), as of February 12, 2009, to represent the Trustee under a general retainer as his attorneys (the "Application"); and upon the Affidavit of Ronald J. Friedman, Esq., a member of SILVERMANACAMPORA (the "Affidavit") which is attached to the Application; and it appearing that: (i) the employment of SILVERMANACAMPORA is necessary **to avoid immediate and irreparable harm** and would be in the best interests of the estate; (ii) SILVERMANACAMPORA is a "disinterested person" as that term is defined in 11 U.S.C. §101(14); (iii) SILVERMANACAMPORA is a firm duly qualified to practice in the Courts of the State of New York and before this Court; and (iv) SILVERMANACAMPORA represents no interest adverse to this estate, and no adverse interest appearing thereto and no additional notice being required; it is hereby

ORDERED, that in accordance with 11 U.S.C. §327, SILVERMANACAMPORA be, and it hereby is, authorized and empowered to represent the Trustee as his attorneys under a general retainer effective as of February 12, 2009; and, it is further

ORDERED, that no compensation or reimbursement of expenses shall be paid to SILVERMANACAMPORA for professional services rendered to the Trustee, except upon proper application and by further order of this Court.

Dated: Central Islip, New York
February 13, 2009

s/Dorothy Eisenberg
Honorable Dorothy T Eisenberg
United States Bankruptcy Judge

Dated: Central Islip, New York
February 13, 2009

NO OBJECTION:

s/ Alfred M. Dimino
Office of the United States Trustee