

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.

Presentment Date: May 12, 2014  
Time: 9:30 a.m.

Objections Due: May 9, 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-

ANTHONY EADERESTO,

Defendant.  
-----X

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

Adv. Pro. No.: 10-08961 (AST)

**NOTICE OF PRESENTMENT OF AN ORDER UNDER  
FEDERAL RULE OF BANKRUPTCY PROCEDURE 9019(a) APPROVING THE  
STIPULATION SETTLING THE TRUSTEE'S CLAIMS AGAINST ANTHONY EADERESTO**

**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 present a proposed order before the Honorable Alan S. Trust, United States Bankruptcy Judge, United States Bankruptcy Court for the Eastern District of New York, located at the Alfonse M. D'Amato Federal Courthouse, 290 Federal Plaza, Courtroom 960, Central Islip, New York 11722 on **May 12, 2014 at 9:30 a.m.**, seeking entry of an Order under Bankruptcy Rule 9019(a) Approving the

Stipulation Settling the Trustee's Claims against Anthony Eaderesto. 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 Alan S. Trust, United States Bankruptcy Judge, United States Bankruptcy Court, Eastern District of New York, Alfonse M. D'Amato Federal Courthouse, 290 Federal Plaza, Courtroom 960, 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 **May 9, 2014 at 5:00 p.m.**

**PLEASE BE ADVISED**, that if an objection is timely filed to the relief requested, or if the Court determines that a hearing is appropriate, the Court will schedule a hearing. Notice of such hearing will be provided by the applicant.

**PLEASE BE ADVISED**, that if no objection is received by the Objection Deadline, the order may be signed without a hearing.

Dated: Jericho, New York  
April 10, 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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(516) 479-6300

**SILVERMANACAMPORA LLP**

Counsel to Kenneth P. Silverman, Esq.,  
Chapter 7 Trustee  
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(516) 479-6300  
Anthony C. Acampora, Esq.  
David J. Mahoney, Esq.

**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.: 10-08961 (AST)

-against-

ANTHONY EADERESTO,

Defendant.

-----X

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

Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") of the substantively consolidated estate of Agape World, Inc., *et al.*, by his attorneys SilvermanAcampora LLP, respectfully submits this motion (the "Motion") under 11 U.S.C. §105 and Federal Rules of Bankruptcy Procedure 9019(a) for entry of an Order (attached as **Exhibit 1**) approving the settlement of the Trustee's claims against Anthony Eaderesto (the "Defendant") as memorialized in the Stipulation Settling the Trustee's claims against Anthony Eaderesto (the

“Stipulation”), which is attached as **Exhibit 2**. All parties are encouraged to review the Stipulation in its entirety for the specific terms of the settlement.

### **Background**

1. On February 5, 2009 (the “Petition Date”), an involuntary chapter 7 petition was filed by four petitioning creditors (“the Petitioning Creditors”) pursuant to 11 U.S.C. §303(b), against Agape World, Inc. (“AWI”), in the United States Bankruptcy Court for the Eastern District of New York.

2. On February 9, 2008, the Petitioning Creditors filed a motion to appoint an interim chapter 7 trustee under 11 U.S.C. §303(g).

3. On February 12, 2009, the Court granted the Petitioning Creditors’ motion and entered an order directing the United States Trustee’s Office to immediately appoint an interim chapter 7 trustee in the AWI case.

4. On February 12, 2009, Kenneth P. Silverman, Esq., was appointed the interim trustee in the AWI case, and has since duly qualified and is now the permanent Trustee in the Debtors’ substantively consolidated case.

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

6. On April 14, 2009, the Court issued an Order substantively consolidating AWI, Agape Merchant Advance LLC, Agape Community LLC, Agape Construction Management, LLC, Agape World Bridges LLC, and 114 Parkway Drive South LLC (collectively, “Agape” or the “Debtors”).

7. 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. On May 1, 2009, Defendant filed a general unsecured claim in the Debtors’ consolidated bankruptcy cases, assigned claim number 1369 (“Claim 1369”), in the amount of \$194,000.00.

9. Based upon Navigant's analysis, the Trustee determined that Defendant received certain transfers, net of deposits into Agape, totaling One Hundred Thirty-Five Thousand Nine Hundred One and 00/100 (\$135,901.00) Dollars from the Debtors prior to the Petition Date.

10. On December 12, 2010, the Trustee commenced this adversary proceeding against Defendant by the filing of a complaint (Adv. Pro. No. 10-008961) (the "Adversary Proceeding"), asserting that (i) certain transfers, net deposits into the Debtors, totaling \$135,901.00 (the "548 Transfers") made by the Debtors to 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 "548 Claims"); and (ii) certain transfers totaling \$5,925.00 (the "547 Transfers") made by the Debtors to Defendant within 90 days prior to the Petition Date are avoidable pursuant to 11 U.S.C. §105, 547, 550 and 551 (the "547 Claims," and collectively with the 548 Claims, the "Trustee's Claims").

11. Thereafter, the Parties engaged in informal discovery related to the Trustee's Claims and the defenses asserted by Defendant, during which the Defendant demonstrated previously unaccounted for deposits made by Defendant. Accordingly, Defendant's net transfer liability for the 548 Claim was concomitantly reduced to \$901.00 (the "548 Net Transfers," and collectively with the 547 Transfers, the "Transfers")

12. Defendant has offered to pay \$2,370.00 (the "Settlement Sum") to the Trustee, and waive Claim 1369, in full and final settlement of the Trustee's Claims.<sup>1</sup>

13. Based the Trustee's 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.

14. For all the reasons set forth herein, the Trustee submits that accepting Defendant's offer to remit the Settlement Sum and waive Claim 1369 in full and final settlement

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

of the Trustee's Claims is a reasonable exercise of the Trustee's business judgment and is in the best interest of the Debtors' estate.

### **Settlement**

15. The Trustee has determined that settling this matter for the Settlement Sum and a waiver of Claim 1369 is the most economical and efficient way to realize a meaningful recovery for the creditor's benefit without incurring additional legal fees and the risks inherent with prosecuting the Trustee's Claims and collecting on any resulting judgment efforts.

### **Basis for Relief Requested**

16. 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).

17. 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.<sup>2</sup>

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<sup>2</sup> *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").

18. 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."<sup>3</sup> As stated in *Arrow Air*, the "approval of [a] proposed compromise and settlement is a matter of this Court's sound discretion."<sup>4</sup> In passing upon a proposed settlement, "the bankruptcy court does not substitute its judgment for that of the trustee."<sup>5</sup> 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."<sup>6</sup> 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."

19. The Second Circuit in *In re Iridium Operating LLC*<sup>7</sup> 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;

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<sup>3</sup> *Handler v. Roth (In re Handler)*, 386 B.R. 411, 420 (Bankr. E.D.N.Y. 2007)(quoting *In re Adelphia 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).

<sup>4</sup> *Arrow Air*, *supra*, 85 B.R. at 891.

<sup>5</sup> *In re Depo*, 77 B.R. at 384 (citations omitted).

<sup>6</sup> *Bell & Beckwith*, 77 B.R. at 612; see also *In re Handler*, 386 B.R. at 421.

<sup>7</sup> 478 F.3d 452, 462 (2d Cir. 2007).

- v. the competency and experience of the counsel who support the proposed settlement;
- vi. the relative benefits to be received by individuals or groups within the class; and
- vii. the extent to which the settlement is the product of arm's length bargaining.<sup>8</sup>

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

21. The Settlement Sum represents a guaranteed recovery of significant portion of the 547 Transfers for which the Trustee believes Defendant may be liable in satisfaction of the Trustee's Claims. Moreover, by waiving Claim 1369, Defendant has provided additional consideration and reduced the costs associated with administering such claim, all of which provides a benefit to the Debtors' creditors.

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

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

24. The Trustee submits that considering the costs and uncertainties associated with further litigation, trial, and the resulting judgment enforcement 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**

25. 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

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<sup>8</sup> See *In re Iridium Operating LLC*, 478 F.3d at 462; See also *In re Handler*, 386 B.R. at 421.



have been posted on the Trustee's website located at [www.agapeworldbankruptcy.com](http://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.

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

Dated: Jericho, New York  
April 10, 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 1

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
In re:

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

Debtors.

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

Plaintiff,

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

Adv. Pro. No.: 10-08961 (AST)

-against-

ANTHONY EADERESTO,

Defendant.

-----X

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

Upon the Notice of Motion (the "Notice"), dated April 10, 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 Anthony Eaderesto (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, and New York Debtor and Creditor Law §§273, 274, 275, 276, and 276-a, and New York Common Law, is reasonable and in the best interest of the Debtors' estate; and sufficient cause having been shown therefor; and after due deliberation and consideration; and it appearing that sufficient notice of the Motion and proposed Order has

been given; and it appearing that good and sufficient cause exists for granting the Motion and proposed Order; and no additional notice being necessary or required:

**NOW, THEREFORE**, upon the Trustee's Notice and Motion and pursuant to Federal Rule of Bankruptcy Procedure 9019(a) and other applicable law, it is hereby

**ORDERED**, that service of the Notice and Motion and proposed Order, having been provided to: (i) the Office of the United States Trustee; (ii) Nicholas Cosmo, Debtors' former principal; (iii) Defendant; (iv) Defendant's counsel; (v) the Internal Revenue Service and other governmental agencies to the extent required by the Bankruptcy Rules and the Local Rules; and (vi) all parties having filed a Notice of Appearance in this case, and copies have been posted on the Trustee's website located at [www.agapeworldbankruptcy.com](http://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 2

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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.

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

Plaintiff,

-against-

ANTHONY EADERESTO,

Defendant.

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

Adv. Pro. No. 10-08961 (DTE)

**STIPULATION SETTLING THE  
TRUSTEE'S CLAIMS AGAINST ANTHONY EADERESTO**

- 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. 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 Anthony Eaderesto (the "Defendant") prior to the Filing Date.

VIII. On May 1, 2009, Defendant filed a general unsecured claim in the Debtors' consolidated bankruptcy cases, assigned claim number 1369 ("Claim 1369"), in the amount of \$194,000.00.

IX. On December 12, 2010, the Trustee commenced this adversary proceeding against Defendant by the filing of a complaint (the "Complaint"), wherein the Trustee asserted that: (i) certain transfers, net deposits into the Debtors, totaling \$135,901.00 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 (the "548 Claim"); and (ii) certain transfers totaling \$5,925.00 (the "547 Transfers") made by the Debtors to Defendant within 90 days prior to the Filing Date are avoidable pursuant to 11 U.S.C. §§105, 547, and 550 (the "547 Claim," and together with the 548 Claim, the "Trustee's Claims")

X. Thereafter, the parties engaged in informal discovery related to the Trustee's Claims and defenses asserted by Defendant, whereby Defendant demonstrated previously unaccounted for deposits made by Defendant. Accordingly, Defendant's net transfer liability for the 548 Claim was concomitantly reduced to \$901.00 (the "548 Net Transfers," and collectively with the "547 Transfers", the "Transfers")

XI. In the spirit of compromise and without any admission of liability, Defendant has offered to remit the Settlement Sum of \$2,370.00 (the "Settlement Sum") and waive Claim 1369

in its entirety in full and final settlement of the Trustee's Claims.

XII. Based upon the Trustee's review of all documentation related to the 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. Upon execution of this Stipulation, Defendant will remit the Settlement Sum to "Kenneth P. Silverman, Esq., as Chapter 7 Trustee," by delivering a check to Trustee's counsel at SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York, 11753, Attn: Cooper J Macco, Esq.
3. As additional consideration for settling the Trustee's Claim, Defendant agrees to:  
(i) waive his right to receive a distribution on any scheduled claim potentially listed on Schedule F of the Debtors' petitions; (ii) waive his right to file a proof of claim under Bankruptcy Code §502(h) in connection with the Settlement Sum; (iii) waive any and all claims against the Debtors' estates, including a waiver of Claim 1369 in its entirety; (iv) waive his right to any further distribution from the Debtors' estate; (v) execute the attached notice of waiver of the Claim 1369 (the "Notice of Waiver"), annexed hereto as **Exhibit A**; and (vi) authorize the Trustee's counsel to electronically file the Notice of Waiver with the Bankruptcy Court, and deliver the Notice of Waiver to the Trustee's retained claims and noticing agent.
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, on 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 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.

**Releases**

7. Upon the entry of the Approval Order, and the Trustee's receipt and clearance of the Settlement Sum, the Trustee and the estate release and forever discharge Defendant, her 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).

8. Upon the entry of the Approval Order, Defendant releases, discharges and waives any and all claims against the Debtors' Estate, the Trustee and the Trustee's agents, attorneys, assigns and successors-in-interest from any and all claims, claims for relief, demands, costs, expenses, damages, liabilities, and obligations of any nature.

**No Admission**

9. It is understood and agreed that this Stipulation is entered into to avoid costly and protracted litigation. Neither the execution of this Stipulation, nor the payment of the Settlement Sum shall be construed as an admission on Defendant's part. For clarification, this paragraph is not intended and shall not be deemed to affect Defendant's obligation to make

timely payment of the Settlement Sum or adversely affect the Trustee's rights and remedies in the event that Defendant fails to make timely payment of the Settlement Sum.

**Miscellaneous**

10. 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.

11. 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.

12. 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.

13. 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.

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

15. 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 \_\_, 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  
~~February \_\_, 2014~~  
March 11, 2014

**SINNREICH KOSAKOFF & MESSINA LLP**  
Attorneys for Defendant

By: s/ Jonathon Sinnreich  
\_\_\_\_\_  
Jonathon Sinnreich  
267 Carleton Avenue, Suite 301  
Central Islip, New York 11722  
(631) 650-1200