

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 7
Case No.: 09-70660 (AST)
(substantively consolidated)

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

Debtors.

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**ORDER ESTABLISHING BIDDING PROCEDURES AND NOTICING
GUIDELINES IN CONNECTION WITH CHAPTER 7 TRUSTEE'S
PROPOSED SALE OF THE RESIDENTIAL REAL PROPERTY LOCATED AT
AND KNOWN AS 561 PULASKI ROAD, KINGS PARK, NEW YORK 11754-1318 AT A
PUBLIC AUCTION, SUBJECT TO HIGHER OR BETTER OFFERS, FREE AND CLEAR OF
LIENS, CLAIMS AND ENCUMBRANCES**

Upon the motion dated May 16, 2014 (the "Motion") of Kenneth P. Silverman, Esq., (the "Trustee"), the Chapter 7 Trustee of the estate of Agape World, Inc., *et al.*, (collectively, the "Debtor"), by his undersigned attorneys, SilvermanAcampora LLP, seeking, among other relief, the entry of an order in accordance with Sections 105 and 363 of title 11, United States Code (the "Bankruptcy Code"): (i) authorizing and approving sale and notice procedures for the Trustee's proposed sale (the "Sale") of all right, title, and interest in and to real property located at and known as 561 Pulaski Road, Kings Park, New York 11754-1318 District: 800, Section: 11, Block 4, Lot 21.004 (the "Real Property") by public auction (the "Auction"); (ii) authorizing and approving the Sale of the Real Property after the Auction to the bidder offering the highest or best bid, free and clear of all liens, claims, and encumbrances, with such liens, claims, and encumbrances to attach to the proceeds of the Sale in the same amount, priority, and validity existing as of the Debtor's filing; and (iii) granting such other and further relief as is just; and after due deliberation and consideration of all the facts and circumstances herein; and upon the affidavit of service of the Motion on file with the Court; and the relief sought being determined to be in the best interest of the Debtor's estate and its creditors, and no further notice being

necessary or required, it is **HEREBY**

ORDERED, that the Motion is granted to the extent provided for herein, and all other relief sought in the Motion not granted herein shall be considered subsequent to the Auction and remains subject to further order of the Court; and it is further

ORDERED, that the notice of the Motion as given by the Trustee as described in the Motion is deemed adequate under the circumstances; and it is further

ORDERED, that the Terms of Sale, annexed hereto as **Exhibit "A"**, are approved in all respects; and it is further

ORDERED, that the Auction will be held on June 25, 2014 at 11:00 a.m., at 39 Windsor Place, Central Islip, New York 11722, or such other place to be determined in the discretion of the Trustee, and that the Real Property shall be offered for inspection by appointment at reasonable times, requested by the interested party to David R. Maltz & Co., Inc. who will make such arrangements, so long as the request is made no less than forty-eight (48) hours prior to the requested inspection, or, in lieu of inspections by appointment, the Real Property shall be offered for inspection on not less than two separate occasions for at least two hours each occasion; and it is further

ORDERED, that within forty-eight hours after the conclusion of the Auction, the Trustee shall cause to be filed a Sale Declaration (as defined in the Motion) and present a proposed sale order, substantially in the form attached to the Motion as Exhibit C, for presentment on July 3, 2014, at 10:00 a.m., authorizing the Sale to the successful bidder at the conclusion of the Auction; and it is further

ORDERED, that objections, if any, to that part of the relief sought in the Motion not otherwise approved by this Order, including the Sale of the Real Property free and clear of liens, shall be filed with the Bankruptcy Court by June 30, 2014, at 4:00 p.m. electronically by registered users of the Bankruptcy Court's case filing system, and by all other parties in interest

on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers), and must be and served on: SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753 (Attn: Robert Nosek, Esq.); and the Office of the United States Trustee, Alfonse M. D'Amato Federal Courthouse, 290 Federal Plaza, Central Islip, New York 11772; and it is further

ORDERED, the Trustee shall serve a copy of this Order (the "Sale Notice") within two (2) business days after the entry of this Order, by first class mail, facsimile, or e-mail, on (i) the Office of the United States Trustee; (ii) Nicholas Cosmo, the former principal of the Debtors; (iii) criminal counsel to Nicholas Cosmo, the former principal of the Debtors; (iv) all parties having filed a Notice of Appearance in this case; (v) all appropriate taxing authorities.; (vi) all parties identified by Maltz as having expressed an interest in the Real Property (the "Potential Bidders"), through the date of the entry of this Order, with an affidavit of service to be filed no later than the filing of the Sale Declaration; and it is further;

ORDERED, that except as otherwise provided for herein, the Trustee is authorized to expend such funds and execute such documents as necessary to effectuate the terms and conditions of this Order.

EXHIBIT A

TERMS AND CONDITIONS OF SALE

1. These Terms & Conditions of Sale are promulgated in connection with the public auction sale (the "Auction") of certain real property and improvements thereon, located at 561 Pulaski Road, Fort Salonga, NY 11754, District: 800, Section: 11, Block 4, Lot 21.004 (the "Property").

2. The Auction will be held on June 25, 2014 at 11:00 am (the "Sale Date") at Maltz's office, 39 Windsor Place, Central Islip, NY 11722.

3. The seller of the Property is Kenneth P. Silverman, Esq. (the "Trustee") as the Chapter 7 Trustee of the estate (the "Estate") of Agape World, Inc. et al. (collectively, the "Debtors"), a Chapter 7 case pending in the United States Bankruptcy Court for the Eastern District of New York (the "Bankruptcy Court"), Case No. 09-70660-AST. The sale is conducted pursuant to section 363(b), (d) and (f) of title 11 of the United States Code.

4. In order to be permitted to bid on the Property, prior to the commencement of the Auction, each prospective bidder ("Bidder") must deliver to Maltz a certified check or bank check made payable to Kenneth P. Silverman, Esq., as Chapter 7 Trustee in the amount of Fifty Thousand Dollars (\$50,000.00) (the "Qualifying Deposit"), which amount shall serve as a partial good faith deposit against payment of the purchase price by such competing Bidder as the Trustee determines to have made the highest or best bid for the Property (the "Successful Purchaser"). Within 48 hours after conclusion of the Auction, the Successful Purchaser shall deliver to the Trustee, by certified check or bank check made payable to Kenneth P. Silverman, Esq., as Chapter 7 Trustee or by wire in immediately available federal funds, an amount equal to 10% of the high bid realized at Auction minus the Qualifying Deposit (together with the Qualifying Deposit, the "Deposit") plus a 4% Buyer's Premium (as hereinafter defined). The Buyer's Premium shall be deemed to have been earned immediately upon the fall of the hammer and is due within 48 hours after conclusion of the Auction. Failure of the Successful Purchaser to tender the 10% Deposit of the high bid at Auction and the Buyer's Premium within 48 hours after conclusion of the Auction shall result in an immediate default under the terms of these Terms and Conditions of Sale and the Memorandum of Sale and shall result in the forfeiture of all earnest monies paid, including the Buyer's Premium. The Successful Purchaser must execute, and thereby agree to be bound by these Terms and Conditions of Sale and the memorandum of the (the "Memorandum of Sale"). **At the conclusion of the Auction, Maltz will return the Qualifying Deposits to all unsuccessful Bidders**

5. Pursuant to an order of the Bankruptcy Court, the Successful Purchaser is solely responsible to pay Maltz four percent (4%) of the high bid at Auction (the "Buyer's Premium"). The sum of the high bid at Auction and the Buyer's Premium is defined herein as the "Purchase Price". (Maltz shall be required to file an application with the Court to be paid the Buyer's Premium but nothing herein shall relieve the Successful Purchaser from its obligation to tender the Buyer's Premium as required under these terms of sale).

6. The Successful Purchaser must pay the balance of the Purchase Price for the Property to the Trustee by certified check or bank check or by wire in immediately available federal

funds at the closing of title to the Property (the "Closing"). The Successful Purchaser must close title to the Property at a date that is no more than forty five (45) days after the conclusion of the Auction, or before August 11, 2014 (the "Closing Date"), **TIME BEING OF THE ESSENCE as to the Successful Purchaser**, although such date may be extended solely by the Trustee.

7. The Bankruptcy Court prior to Closing may enter an order confirming the results of the Auction.

8. The Closing shall take place at the offices of attorneys for the Trustee, SilvermanAcampora LLP, 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753.

9. The Successful Purchaser shall pay any and all costs and expenses in connection with the Closing related to obtaining a survey; fee title or mortgage insurance; title company endorsement, search and escrow charges; environmental, engineering or other Property inspections; appraisals, reports and other costs of Property due diligence; and Suffolk County, New York State, or other real property transfer, deed or documentary tax, or other taxes imposed upon the sale due in connection with the transfer of the Property from the Estate at Closing. The Estate shall not be required to execute any form of title affidavit (but may in its sole and absolute discretion) and all title exceptions customarily omitted from a title policy on account of such title affidavit shall be deemed permitted exceptions. The Successful Purchaser acknowledges that it will be responsible for the preparation of all Closing documents required including, but not limited to, transfer tax forms. In connection with the Closing and Closing Date, the Successful Purchaser is hereby given notice that **TIME IS OF THE ESSENCE against the Successful Purchaser and the failure of the Successful Purchaser to close for any reason whatsoever (except as otherwise provided herein) including its failure to pay the balance of the Purchase Price on the Closing date, will result in an immediate forfeiture of the Deposit and Buyer's Premium and the termination of the Successful Purchaser's right to acquire the Property under these Terms and Conditions of Sale and the Memorandum of Sale.** The Successful Purchaser shall be obligated to close title to the Property and, except as expressly set forth herein, there is no contingency of any kind or nature that will permit the Successful Purchaser to cancel or avoid its obligation under these Terms of and Conditions of Sale and the Memorandum of Sale other than the Trustee's inability to deliver insurable title to the Property. Further, the Successful Purchaser shall have demonstrated, to the satisfaction of Maltz and the Trustee, evidence of its ability to conclude the transaction upon these Terms and Conditions of Sale and the Memorandum of Sale, without delay. The Trustee reserves the right to reject any Purchaser or Bidder who the Trustee believes, in his sole discretion, is not financially capable of consummating the purchase of the Property. Expenses incurred by the Successful Purchaser, or any other Bidder, concerning any due diligence shall be the sole responsibility of such Bidder and, under no circumstances shall Maltz or the Estate be responsible for, or pay, such expenses.

10. In the event that the Successful Purchaser for the Property fails to tender the payment of the balance of the Purchase Price on the Closing Date, or otherwise perform any of its obligations under these Terms and Conditions of Sale, the Trustee, at his sole option, shall be authorized to sell the Property to the Second Highest Bidder without any further notice without giving credit for the Deposit forfeited by the Successful Purchaser, and upon such other terms and conditions as the Trustee deems appropriate. Should the Second Highest Bidder fail to close on the

Property, within such time as the parties may agree but not to exceed thirty (30) days after notice from the Trustee to the Second Highest Bidder, the Trustee shall be authorized to sell the Property to the next highest or best bidder, without the necessity of any further notice. All bidders will be bound by these Terms and Conditions of Sale.

11. The Trustee or the Trustee's professionals have not made and do not make any representations as to the physical condition, rents, leases, expenses, operations, value of the land or buildings thereon, or any other matter or thing affecting or related to the Property or this Auction Sale, which might be pertinent to the purchase of the Property, including, without limitation, (i) the current or future real estate tax liability, assessment or valuation of the Property; (ii) the potential qualification of the Property for any and all benefits conferred by or available under federal, state or municipal laws, whether for subsidies, special real estate tax treatment, insurance, mortgages, or any other benefits, whether similar or dissimilar to those enumerated; (iii) the compliance or non-compliance of the Property, in its current or any future state, with applicable present or future zoning ordinances or other land use law or regulation, or the ability to obtain a change in the zoning or use, or a variance in respect to the Property; (iv) the availability of any financing for the purchase, alteration, rehabilitation or operation of the Property from any source, including, but not limited to, any state, city or federal government or institutional lender; (v) the current or future use of the Property; (vi) the present and future condition and operating state of any and all machinery or equipment on the Property and the present or future structural and physical condition of any building thereon or its suitability for rehabilitation or renovation; (vii) the ownership or state of title of any personal property on the Property; (viii) the presence or absence of any laws, ordinances, rules or regulations issued by any governmental authority, agency or board and any violations thereof; (ix) any present or future issues concerning subdivision or non-subdivision of the Property; or (x) the compliance or non-compliance with environmental laws and the presence or absence of underground fuel storage tanks, any asbestos or other hazardous materials anywhere on the Property. Each bidder hereby expressly agrees and acknowledges that no such representations have been made. The Trustee is not liable or bound in any manner by expressed or implied warranties, guaranties, promises, statements, representations or information pertaining to the Property, made or furnished by the Trustee or any real estate broker, agent, employee, servant or other person or professional representing or purporting to represent the Trustee unless such warranties, guaranties, promises, statements, representations or information are expressly and specifically set forth in writing by the Trustee.

12. The Property is being sold **"AS IS" "WHERE IS", "WITH ALL FAULTS"**, without any representations, covenants, guarantees or warranties of any kind or nature, and free and clear of any liens, claims, or encumbrances of whatever kind or nature, with such liens, if any, to attach to the proceeds of sale in such order and priority as they existed immediately prior to the Closing, and sale of the Property is subject to, among other things (a) any state of facts that an accurate survey may show; (b) any covenants, restrictions and easements of record; (c) any state of facts a physical inspection may show; (d) any building or zoning ordinances or other applicable municipal regulations and violations thereof; and (e) environmental conditions; provided, however, **the Property shall be delivered free and clear of any and all monetary liens.** By delivering their respective Qualifying Deposits, all Bidders acknowledge that they have had the opportunity to review and inspect the Property, the state of title thereof and laws, rules and regulations applicable thereto, and will rely solely thereon and on their own independent investigations and inspections of

the Property in making their bids. Neither Maltz, the Trustee nor any of their collective representatives makes any representations or warranties with respect to the permissible uses of the Property including, but not limited to, the zoning of the Property. All Bidders acknowledge that they have conducted their own due diligence in connection with the Property and are not relying on any information provided by Maltz, the Trustee, or their professionals. The Property will be sold subject to any and all violations requiring corrective action.

13. The Trustee shall convey the Property by delivery of a Trustee's deed. The quality of title shall be that which any reputable title insurance company authorized to do business in the State of New York is willing to approve and insure. If the Successful Purchaser is unable to obtain title insurance, subject to the permissible exceptions contained herein, the Trustee may, at his option, arrange for the issuance of a title insurance policy by such a company at the sole cost and expense of the Successful Purchaser.

14. Neither the Trustee, Trustee's counsel, the Auctioneer, nor the Estate is liable or responsible for the payment of fees of any broker. The only commissions that the estate may be liable for are those of David R. Maltz & Co., Inc., which has been retained pursuant to an Order of the Bankruptcy Court, and those of the Trustee.

15. Nothing contained in these Terms and Conditions of Sale is intended to supersede or alter any provisions of the "Bankruptcy Code" or otherwise interfere with the jurisdiction of the Bankruptcy Court. All of the terms and conditions set forth in these Terms and Conditions of Sale are subject to modification as may be directed by Trustee or by the Court. The Trustee reserves the right to modify these Terms and Conditions of Sale at the Auction or thereafter to maintain consistency with the provisions of the Bankruptcy Code and/or prior orders of the Court.

16. These Terms and Conditions of Sale will be read into the record, or specifically incorporated by reference, at the Auction of the Property. By making a bid for the Property, all Purchasers will be deemed to have acknowledged having read and understood these Terms and Conditions of Sale and have agreed to be bound by them.

17. If the Trustee is unable to deliver the Property in accordance with these Terms and Conditions of Sale for any reason whatsoever, the Trustee's and Maltz's only obligation will be to refund the Deposit and Buyer's Premium, without interest, to the Successful Purchaser and upon such refund, the Successful Purchaser will have no claim or recourse against the Trustee, Maltz or their professionals and shall have no further rights under these Terms and Conditions of Sale or Memorandum of Sale.

18. The Trustee reserves his right to withdraw the Property from the Auction, either prior, or subsequent to the Auction, for any reason whatsoever, as he deems necessary or appropriate.

19. The Auction of the Property is subject to confirmation by the Trustee.

20. The Trustee of the Trustee's attorney shall notify the Successful Bidder whether the Auction Sale is confirmed.

21. The Bankruptcy Court shall determine any disputes concerning the Auction of the Property. By participating in the Auction, all Purchasers consent to the jurisdiction of the Bankruptcy Court to determine such disputes under the Debtor's pending case.

22. Pursuant to E.D.N.Y. L.B.R. 6004-1 no appraiser, auctioneer or officer, director, stockholder, agent, employee or insider of any appraiser, or relative of any of the foregoing, shall purchase directly or indirectly, or have a financial interest in the purchase of, any Assets of the estate that the appraiser has been employed to appraise or sell.

23. **The Property shall be delivered vacant of tenancies at Closing, but as-is and not broom clean.**

I have read these Terms and Conditions of Sale and agree to be bound by them.

By: _____ Date: _____

Print Name: _____

MEMORANDUM OF SALE – SUCCESSFUL PURCHASER

High Bid Realized at Auction: _____

4% Buyer’s Premium: _____

Purchase Price: _____

The undersigned has this 25th day of June, 2014, agreed to purchase the property located at 561 Pulaski Road, Fort Salonga, NY 11754, District: 800, Section: 11, Block 4, Lot 21.004 (the “Property”), vested in Kenneth P. Silverman, Esq. as the appointed Chapter 7 Trustee for the bankruptcy estate of Agape World, Inc. et al. (collectively, the “Debtors”) and being sold by Kenneth P. Silverman, as the Chapter 7 Trustee of the Estate for the sum of \$ _____, and hereby promises and agrees to comply with the annexed Terms and Conditions of Sale of the Property and this Memorandum of Sale.

SUCCESSFUL PURCHASER (Signature)

SUCCESSFUL PURCHASER (Signature)

PRINT NAME

PRINT NAME

ADDRESS

ADDRESS

ADDRESS (City, State, Zip)

ADDRESS (City, State, Zip)

TELEPHONE NUMBER

TELEPHONE NUMBER

EMAIL ADDRESS

EMAIL ADDRESS

Received from _____ the sum of \$50,000 DOLLARS, as a non-refundable deposit for the purchase of the Property pursuant to the Terms and Conditions of Sale.

This is to verify that the final Purchase Price in the above sale was for the sum of \$ _____.

DAVID R. MALTZ & CO., INC.

SUCCESSFUL PURCHASER ATTORNEY INFORMATION


Name _____

Address _____

Phone _____

Dated: June 9, 2014
Central Islip, New York





Alan S. Trust
United States Bankruptcy Judge