

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

Hearing Date: October 15, 2013  
Time: 2:00 p.m.

Objections Due: October 8, 2013  
Time: 4:00 p.m.

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
In re:

Chapter 7  
Case No.: 09-70660 (DTE)  
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.: 10-08906 (DTE)

-against-

MTR HOLDING CORP.,

Defendant.

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

Plaintiff,

Adv. Pro. No.: 10-08940 (DTE)

-against-

MAUREEN RACIOPPI,

Defendant.

-----X  
**NOTICE OF MOTION FOR AN ORDER UNDER FEDERAL RULE OF BANKRUPTCY  
PROCEDURE 9019(a) APPROVING STIPULATION SETTLING THE  
TRUSTEE'S CLAIMS AGAINST MTR HOLDING CORP. AND MAUREEN RACIOPPI**

**PLEASE TAKE NOTICE**, that upon the motion pursuant to Federal Rule of Bankruptcy Procedure 9019(a), dated August 16, 2013, and related documents (collectively, the "Motion"), of Kenneth P. Silverman, Esq., the chapter 7 trustee (the "Trustee") for the substantively consolidated estate of Agape World, Inc., *et al.*, (the "Debtors") by his counsel, SilvermanAcampora LLP, the Trustee will move before the Honorable Dorothy T. Eisenberg, 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 **October 15, 2013 at 2:00 p.m.**, or as soon thereafter as counsel can be heard, seeking entry of an order approving the Stipulation Settling the Trustee's Claims Against MTR Holdings Corp, and Maureen Racioppi. A copy of the proposed Order is annexed hereto.

**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 Dorothy T. Eisenberg, 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 **October 8, 2013 at 4:00 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  
September 9, 2013

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

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

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-

MTR HOLDING CORP.,

Defendant.

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

Plaintiff,

-against-

MAUREEN RACIOPPI,

Defendant.

-----X

**MOTION FOR AN ORDER UNDER FEDERAL RULE OF BANKRUPTCY  
PROCEDURE 9019(a) APPROVING STIPULATION SETTLING THE  
TRUSTEE'S CLAIMS AGAINST MTR HOLDING CORP. AND MAUREEN RACIOPPI**

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 an order (the "Order"), annexed hereto as **Exhibit 1**, approving the settlement of the Trustee's claims against MTR Holding Corporation ("MTR") and

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

Adv. Pro. No.: 10-08906 (DTE)

Adv. Pro. No.: 10-08940 (DTE)

Maureen Racioppi (Racioppi, and together with MTR, the “Defendants”), as memorialized in the Stipulation Settling the Trustee’s Claims Against MTR Holding Corporation and Maureen Racioppi (the “Stipulation”), annexed hereto 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, including a detailed analysis of the extent and

validity of certain transfers made by the Debtors prior to the Filing Date to Racioppi and to MTR, a dissolved corporation of which Racioppi and her spouse were the only shareholders.

8. On or about December 6, 2010, the Trustee commenced an adversary proceeding against MTR numbered Adv. Pro. No. 10-8906 (DTE) by filing a complaint asserting that certain transfers totaling One Hundred Ninety-Eight Thousand Two Hundred Thirty-Five and 77/100 Dollars (\$198,235.77) made by the Debtors to MTR 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, and that certain transfers totaling Twenty-Three Thousand Nine Hundred Fifty and 00/100 Dollars (\$23,950.00) made by the Debtors to MTR within ninety (90) days of the Filing Date are avoidable pursuant to 11.U.S.C. §§ 105, 502, 547, 550 and 551 (the "Trustee's MTR Claims").

9. On or about December 12, 2010, the Trustee commenced a separate adversary proceeding against Racioppi numbered Adv. Pro. No. 10-8940 (DTE) by filing a complaint asserting that certain transfers totaling One Hundred Seventy Thousand Nine Hundred Seven and 04/100 Dollars (\$170,907.04) made by the Debtors to Racioppi are avoidable pursuant to 11 U.S.C. §§ 105, 502, 544, 548, 550, and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law (the "Trustee's Racioppi Claims" and, together with the "Trustee's MTR Claims," the "Trustee's Claims").

10. Thereafter, the parties, through their counsel, engaged in discovery related to the Trustee's Claims and defenses asserted by Defendants, whereby MTR and Racioppi demonstrated that, on a consolidated basis, they suffered a net loss of funds in the amount of Ninety Thousand Eight Hundred Fifty-Seven and 10/100 Dollars (\$90,857.19).

### **Settlement**

11. Defendants have offered, in full and final settlement of the Trustee's Claims, to waive and withdraw with prejudice Proof of Claim No. 1719, filed by Racioppi's minor son, Nicholas Racioppi, against the Debtors' estate in the amount of Eighteen Thousand Five Hundred Forty-Seven and 00/100 Dollars (\$18,547.00) ("Claim No. 1719"), and Proof of Claim No. 1720, filed by MTR against the Debtors' estate in the amount of One Million Six Hundred Sixty-Five Thousand Twenty-Eight and 00/100 Dollars (\$1,665,028.00) ("Claim No. 1720"), as well as any other claims they may have against the Debtors' estate.

12. Based upon Defendants' defenses to the Trustee's Claims and the Trustee's review of all documentation related to the transfers to Defendants, and his investigation of all attendant factors, the Trustee has, in his business judgment, agreed to settle the Trustee's Claims.

13. For all the reasons set forth herein, the Trustee submits that accepting Defendants' offer to waive Claim Nos. 1719 and 1720 (the "Claims Waiver") is a reasonable exercise of the Trustee's business judgment and is in the best interest of the Debtors' estate.

14. The Trustee has determined that settling this matter by accepting the Claims Waiver 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.

### **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.<sup>1</sup>

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."<sup>2</sup> As stated in *Arrow Air*, supra, the "approval of [a] proposed compromise and settlement is a matter of this Court's sound discretion."<sup>3</sup> In passing upon a proposed settlement, "the bankruptcy court does not substitute its judgment for that of the trustee."<sup>4</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>5</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."

---

<sup>1</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").

<sup>2</sup> *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).

<sup>3</sup> *Arrow Air*, supra, 85 B.R. at 891.

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

<sup>5</sup> *Bell & Beckwith*, 77 B.R. at 612; see also *In re Handler*, 386 B.R. at 421.



18. The Second Circuit in *In re Iridium Operating LLC*<sup>6</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;
- 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>7</sup>

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

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 parties to the Stipulation are represented by competent and experienced counsel.

22. The Trustee submits that considering the costs and uncertainties associated with trial, and the resulting litigation that would be necessary to enforce any judgment against the Defendants, it is unlikely that further litigation would result in a “net benefit” to the Debtors'

---

<sup>6</sup> 478 F.3d 452, 462 (2d Cir. 2007).

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

estate in excess of the benefit obtained from the Claims Waiver. In the Trustee's sound business judgment, 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**

23. 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) Defendants; (iv) Defendants' 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). 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.

24. 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  
September 9, 2013

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

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

---

**EXHIBIT 1**

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

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
In re:

Chapter 7  
Case No.: 09-70660 (DTE)  
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.: 10-08906 (DTE)

-against-

MTR HOLDING CORP.,

Defendant.

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

Plaintiff,

Adv. Pro. No.: 10-08940 (DTE)

-against-

MAUREEN RACIOPPI,

Defendant.

-----X

**ORDER UNDER FEDERAL RULE OF BANKRUPTCY  
PROCEDURE 9019(a) APPROVING THE STIPULATION SETTLING THE  
TRUSTEE'S CLAIMS AGAINST MTR HOLDING CORP. AND MAUREEN RACIOPPI**

Upon the Notice of Motion (the "Notice") pursuant to Federal Rule of Bankruptcy  
Procedure 9019(a), dated September 9, 2013, 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.*, (the "Debtors"), by his counsel, SilvermanAcampora LLP, seeking the entry of an Order approving the settlement of the Trustee's claims against MTR Holding Corp. and Maureen Racioppi (together, the "Defendants"), as memorialized in the Stipulation Settling the Trustee's Claims against MTR Holding Corp. and Maureen Racioppi (the "Stipulation"), and upon the Affidavit of Service filed with the Court; and the Motion having come on for a hearing on October 8, 2013 before the Honorable Dorothy Eisenberg, and the Trustee, by his counsel, SilvermanAcampora LLP, by David J. Mahoney, having appeared in support of the Motion; and no opposition to the Motion having been filed; and no one appearing in opposition to the Motion; and the Court having found that settling the Trustee's claims against MTR Holding Corp. 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, and the Trustee's claims against Maureen Racioppi arising under 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, 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) Defendants; (iv) Defendants' 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 Stipulation is approved; and it is further

**ORDERED**, that Proof of Claim No. 1719 filed by Nicholas Racioppi in the amount of \$18,547, is hereby waived as provided in the Stipulation; and it is further

**ORDERED**, that Proof of Claim No. 1720 filed by MTR Holding Corp. in the amount of \$1,665,028 is hereby waived as provided in the Stipulation; and it is further

**ORDERED**, that the Trustee be, and hereby is authorized and directed to take such steps, execute such documents, and expend such funds as may be reasonably necessary to effectuate and implement the terms and conditions of this Order.

**SO ORDERED:**

# **EXHIBIT 2**

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----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.

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

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

Plaintiff,

-against-

Adv. Pro. No.: 10-08906 (DTE)

MTR HOLDING CORP.,

Defendant.

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

Plaintiff,

-against-

Adv. Pro. No.: 10-08940 (DTE)

MAUREEN RACIOPPI,

Defendant.

-----X  
**STIPULATION SETTLING THE TRUSTEE'S CLAIMS  
AGAINST MTR HOLDING CORPORATION AND MAUREEN RACIOPPI**

I. 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.

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 Maureen Racioppi ("Racioppi"), and MTR Holding Corp. ("MTR" and, together with Racioppi, the "Defendants"), a dissolved corporation of which Racioppi and her spouse were the only shareholders.

VIII. On or about December 6, 2010, the Trustee commenced an adversary proceeding against MTR numbered Adv. Pro. No. 10-8906 (DTE) (the "MTR Adversary Proceeding") by filing a complaint asserting that certain transfers totaling One Hundred Ninety-Eight Thousand Two Hundred Thirty-Five and 77/100 Dollars (\$198,235.77) made by the Debtors to MTR (the "MTR Net Transfers) are avoidable pursuant to 11 U.S.C. §§ 105, 502, 544, 548, 550, and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law, and that certain transfers totaling Twenty-Three Thousand Nine Hundred Fifty and 00/100 Dollars (\$23,950.00) made by the Debtors to MTR within ninety (90) days of the Filing Date (the "MTR Preferential Transfers") are avoidable pursuant to 11.U.S.C. §§ 105, 502, 547, 550 and 551 (the "Trustee's MTR Claims").

IX. On or about December 12, 2010, the Trustee commenced a separate adversary proceeding against Racioppi numbered Adv. Pro. No. 10-8940 (DTE) by filing a complaint asserting that certain transfers totaling One Hundred Seventy Thousand Nine Hundred Seven and 04/100 Dollars (\$170,907.04) made by the Debtors to Racioppi (the "Racioppi Net Transfers") are avoidable pursuant to 11 U.S.C. §§ 105, 502, 544, 548, 550, and 551, New York Debtor and Creditor Law §§273, 274, 275, 276 and 276-a, and New York common law (the "Trustee's Racioppi Claims" and, together with the "Trustee's MTR Claims," the "Trustee's Claims").

X. The parties engaged in informal discovery related to the claims and the defenses asserted by MTR and Racioppi, whereby MTR and Racioppi demonstrated that, on a consolidated basis, they suffered a net loss of funds in the amount of Ninety Thousand Eight Hundred Fifty-Seven and 10/100 Dollars (\$90,857.19).

XI. In the spirit of compromise and without any admission of liability, Defendants have offered, in full and final settlement of the Trustee's Claims, to waive Proof of Claim No. 1719, filed by Racioppi against the Debtors' estate in the amount of Eighteen Thousand Five Hundred Forty-Seven and 00/100 Dollars (\$18,547.00), and Proof of Claim No. 1720, filed by MTR against the Debtors' estate in the amount of One Million Six Hundred Sixty-Five Thousand Twenty-Eight and 00/100 Dollars (\$1,665,028.00), as well as any other claims they may have against the Debtors' estate.

XII. Based upon his review of all documentation related to the Trustee's Claims and the defenses asserted by MTR and Racioppi, and his investigation of all attendant factors, the Trustee has, in his business judgment, agreed to settle the Trustee's Claims upon the following terms and conditions, which the Trustee believes are fair and reasonable, especially in light of the costs and uncertainty associated with 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:

**Defendants' Waiver of Proofs of Claim**

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. Defendants have agreed to expunge (i) Proof of Claim No. 1719, filed by Racioppi against the Debtors' estate in the amount of Eighteen Thousand Five Hundred Forty-Seven and 00/100 Dollars (\$18,547.00), and (ii) Proof of Claim No. 1720, filed by MTR against the Debtors' estate in the amount of One Million Six Hundred Sixty-Five Thousand Twenty-Eight and 00/100 Dollars (\$1,665,028.00).

3. 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**

4. Upon the entry of the Approval Order and the expunction of Proofs of Claim Nos. 1719 and 1720, the Trustee and the estate release and forever discharge Defendants, their affiliated entities, agents, representatives, present or former officers, 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).

5. Upon the entry of the Approval Order, Defendants release, discharge and waive 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 of Criminal or Civil Liability**

6. 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 waiver of Defendants' proofs of claim, shall be construed as an admission of any criminal or civil liability on Defendants' part, or that their claims lacked merit.

**Miscellaneous**

7. 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.

8. 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.

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

10. 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.

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

Dated: Jericho, New York  
August \_\_, 2013

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

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

Dated: Babylon, New York  
August 21, 2013

**MTR Holding Corp.**

By: s/ Richard Racioppi  
Richard Racioppi

Dated: Babylon, New York  
August 21, 2013

**Maureen Racioppi**

s/ Maureen Racioppi

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 (DTE)  
Substantively Consolidated

**NOTICE OF WAIVER AND WITHDRAWAL WITH PREJUDICE OF  
CLAIM NO. 1719 IN THE AMOUNT OF \$18,547.00 FILED BY NICHOLAS RACIOPPI.**

Nicholas Racioppi hereby waives and withdraws, with prejudice, his filed proof of claim, assigned Claim Number 1719 ("Claim No. 1719"), filed May 11, 2009, in the amount of Eighteen Thousand Five Hundred Forty-Seven and 00/100 Dollars (\$18,547.00) and the claim thereunder. 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 facilitate the withdrawal of Claim No. 1719 with prejudice. A copy of Claim No. 1719 is attached hereto.

Dated: September \_\_, 2013

**NICHOLAS RACIOPPI**

s/ Maurren Racioppi (Sign Name)  
as parent of Nicholas Racioppi

Maureen Racioppi (Print Name)

01004301



|  |   |  |
|--|---|--|
| <b>UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF NEW YORK</b>   |   | <b>PROOF OF CLAIM<br/>CHAPTER 7</b>  |
| Name of Debtor <u>Agape World Inc</u>  |   | Case Number <u>09-70660 (DTE)</u>  |
| 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)  |   | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim  |
| Name and address where notices should be sent<br><u>RACIOPPI, NICHOLAS</u><br><u>833 DEER PARK AVE</u><br><u>BABYLON, NY 11702</u><br><br><u>my son's minors</u><br><u>Nicky + Daniel</u>  |   | Court Claim Number _____<br>(If known)<br><br>Filed on _____   |
| Telephone number [REDACTED]  |   |  |
| Name and address where payment should be sent (if different from above)  |   | <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  |
| <p style="text-align: center;"><b>FILED - 01719</b><br/><b>USBC - EASTERN DISTRICT OF NEW YORK</b><br/><b>AGAPE WORLD INC</b></p> <p>Telephone number <u>09-70660 (DTE)</u> <u>\$18,547.23</u></p>   |   | <input type="checkbox"/> Check this box if you are the debtor or trustee in this case  |
| 1 Amount of Claim as of Date Case Filed <u>\$ 18,547</u>   |   | 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   |
| 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  |   | Specify the priority of the claim  |
| <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   |   |  |
| 2 Basis for Claim <u>Investment</u><br>(See instruction #2 on reverse side)  |   | <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B)   |
| 3 Last four digits of any number by which creditor identifies debtor _____   |   | <input type="checkbox"/> Unsecured claims allowed under § 502(f) (§507 (a)(1)(A)(3))   |
| 3a Debtor may have scheduled account as _____<br>(See instruction #3a on reverse side)   |   | <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) |
| 4. Secured Claim (See instruction #4 on reverse side)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information   |   | <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5)   |
| Nature of property or right of setoff <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other   |   | <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)   |
| Describe _____   |   | <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8)   |
| Value of Property \$ _____ Annual Interest Rate _____ %  |   | <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))   |
| Amount of arrearage and other charges as of time case filed included in secured claim, if any \$ _____ Basis for perfection _____  |   | <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507 (a)( )<br>Amount entitled to priority \$ _____   |
| Amount of Secured Claim \$ _____ Amount Unsecured \$ _____   |   | <i>*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment</i>  |
| 6 Credits. The amount of all payments on this claim has been credited for the purpose of making this proof of claim  |   |  |
| 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) |   |  |
| <b>DO NOT SEND ORIGINAL DOCUMENTS ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING</b>   |   |  |
| If the documents are not available, please explain _____   |   |  |
| Date <u>5/5/09</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<br><u>Richard A. Racioppi Jr.</u> | <b>FOR COURT USE ONLY</b>  |



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 (DTE)  
Substantively Consolidated

**NOTICE OF WAIVER AND WITHDRAWAL WITH PREJUDICE OF  
CLAIM NO. 1720 IN THE AMOUNT OF \$1,665,028.00 FILED BY MTR HOLDING CORP.**

MTR Holding Corp. hereby waives and withdraws, with prejudice, its filed proof of claim, assigned Claim Number 1720 ("Claim No. 1720"), filed May 11, 2009, in the amount of One Million Six Hundred Sixty-Five Thousand Twenty-Eight and 00/100 Dollars (\$1,665,028.00) and the claim thereunder. 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 facilitate the withdrawal of Claim No. 1720 with prejudice. A copy of Claim No. 1720 is attached hereto.

Dated: September \_\_, 2013

**MTR HOLDING CORP.**

s/ Richard Racioppi \_\_\_\_\_ (Sign Name)

Richard Racioppi \_\_\_\_\_ (Print Name)

Richard Racioppi \_\_\_\_\_ (Print Name)



01003605



|  |  |  |
|--|--|--|
| <b>UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF NEW YORK</b>   |  | <b>PROOF OF CLAIM<br/>CHAPTER 7</b>  |
| Name of Debtor <u>Agape World Inc</u>  |  | Case Number <u>09-70660 (DTE)</u>  |
| 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)  |  | <input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim  |
| Name and address where notices should be sent<br>MTR HOLDING CORP<br>633 DEER PARK AVE<br>BABYLON, NY 11702  |  | Court Claim Number _____<br>(If known)   |
| Telephone number [REDACTED]  |  | Filed on _____   |
| Name and address where payment should be sent (if different from above)  |  | <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   |
| Telephone number _____   |  | <input type="checkbox"/> Check this box if you are the debtor or trustee in this case  |
| 1 Amount of Claim as of Date Case Filed <u>\$ 1,665,028.00</u><br>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.<br>If all or part of your claim is entitled to priority, complete item 5.<br><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.<br>Specify the priority of the claim                |
| 2 Basis for Claim. <u>Investment</u><br>(See instruction #2 on reverse side)   |  | <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B)   |
| 3 Last four digits of any number by which creditor identifies debtor <u>0252</u>   |  | <input type="checkbox"/> Unsecured claims allowed under § 502(f) (§507 (a)(1)(A)(3))   |
| 3a Debtor may have scheduled account as _____<br>(See instruction #3a on reverse side)   |  | <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) |
| 4 Secured Claim (See instruction #4 on reverse side)<br>Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.<br>Nature of property or right of setoff. <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other<br>Describe _____<br>Value of Property \$ _____ Annual Interest Rate _____%<br>Amount of arrearage and other charges as of time case filed included in secured claim, if any \$ _____ Basis for perfection _____<br>Amount of Secured Claim \$ _____ Amount Unsecured \$ _____ |  | <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. §507 (a)(5)   |
| 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"/> 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)   |
| 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).   |  | <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. §507 (a)(8)   |
| DO NOT SEND ORIGINAL DOCUMENTS ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING  |  | <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))   |
| If the documents are not available, please explain _____   |  | <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. §507 (a)(____)<br>Amount entitled to priority \$ _____  |
| Date <u>5/5/09</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.<br><u>Richard A. Racioppi Jr.</u> Richard A Racioppi Jr.   |  | *Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment   |

